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Decisions
of the
Proceedings Judgments and Decrees
of the
Supreme Court
of the
Republic of Texas
From
January Term 1841

Be it remembered That on the Eleventh day of Janury 1841, being the Second monday of that month at the court House in the City of Austin was begun and held the Supreme Court of the Republic of Texas,- Present the Hon John Hemp=hill, Chief Justice, John M Hansford Judge of the Seventh, Rich=ardson Scurry of the Sixth, Robert E B Baylor of the Third, George W Terrell of the Fifth, and Anderson Hutchinson of the Fourth Judicial District, - Wayne Barton Sheriff of Travis County gave attendance as the Sheriff of the Court.

There being no clerk of this Court attending the Court appoints Thomas Green Clerk Pro. Tempore.

The Court adjourns until Tomorrow at 3 Oclock P.M.

Tuesday January 12th 1841

The Court met pursuant to adjournment- Present Chief Jus=tice Hemphill and the Associate Justices Baylor, Hansford, Hutchinson, Scurry and Terrell.

The Docket having received a preliminary call, the Chief Justice submitted to the Court a letter from Wm T Gray Clerk of this Court in relation to the cause of his absence which is ordered to be filed for Consideration by the Court

The Court adjourns until Tomorrow morning 10 Oclock.

Wednesday January 13th 1841.

The Court met pursuant to adjournment- Present Chief Justice Hemphill and the associate Justices Baylor, Hansford Hutchi=inson, Scurry and Terrell.

On motion the following gentlemen were admitted to practice in this Court as Attorneys, Counsellors and Solicitors, To Wit: A.P. Henderson, R.F. Wheeler, and W.B. Scurry, of San Augustine, Colin DeBland of Fort Bend, Francis A Morris and Joseph See of Travis, F.S. Gray, Geo. W. Blow, and Wm. H. Daingerfield of Bexar, Amos Merrill of Red River, Wm. N. Porter and Robt. Potter of Bowie, and Isaac VanZandt of Harrison.

James F. Perry Exr &c v. Eliza M. Westall & Wm G. Hill
Wm G. Hill & Wife v. James F. Perry Exr. &c
W.S. Hall v. Wm Bradley
Hugh McGreal v. Thomas Haggerty & Sons
Allen Vince v. Sally Vince
These Causes are ordered to be continued until the next Term.

Thomas Alcorn Adm'r &c v. Wm B Sweeny
Comes the attorney of the appellant and suggests to the court the death of the appellee, and this cause is continued for process of revivor to be issued.

The Court adjourns until Tomorrow morning 10 Oclock.

Thursday January 14th 1841

The Court met pursuant to adjournment— Present Chief Justice Hemphill, and the associate Justices Baylor, Hansford, Hutchinson, Scurry and Terrell.

Thos Kenney v. B Manlove
This cause is ordered to be continued until the next Term.

M. Edwards v. C Dart adm'r &c
A G & R Mills v. E Waller &c
W.L. Hill v. Wm Dermet & Wife
S Knight v. Geo. Huff adm'r &c
W S Hall v Jno Bradley
W.D. [illegible] & W B Aldridge
[illegible] & Andrews v. Edmund Andrews

Caples adm.v. A Robinson
W G Hill v. E Waller
W. T. Austin v. A B Harris
E Waller v. S Andrews
W. G. Hill v. T. S Pilgrim
W D & Hall v. N Townsend
C & C Connor v. A N. Van Hamme
W D Hall v. T. S. Alcorn
H Austin v. W. C. White
W. D & Hall v. S. A. & E. Phelps
McKinney & Williams v. S & C. Bradbury adm^x &c
H Austin v F. A. Sawyer
Same v. E Andrews adm^r.

On the motion of Wm H. Jack, atty for the appellants, these causes were generally ordered To be docketed

Several causes having been argued, the Court adjourns until tomorrow morning 10 Oclock.

Friday January 15th 1841

The court met pursuant to adjournment. Present Chief Justice Hemphill, and the associate Justices Baylor, Hansford & Hutchinson, Scurry and Terrell.

Republic v. Lewis Goodwin
Cannon & Sims v. T Pillsbury

On motion These causes are ordered To be docketed

James W. Jones v. A. P. Noland

This cause is ordered to be continued until next Term

D. P. Coit v. Hirons & Donahoe

Ordered That This cause be docketed

Ann Hamilton v. Duffield - dismissed for want of a decision by Court

Several other causes having been argued, the Court adjourned Til Monday morning 10 Oclock and on Monday January 18th The Court met & adjourned until Tuesday morning 10 Oclock

Tuesday January 19th 1841

The Court met pursuant to adjournment - Present Chief Justice Hemphill, and the associate Justices Baylor, Hansford, Hutchinson, Scurry and Terrell.

I. & B. Bailey v. Elizabeth Haddy admx &c

This cause coming on to be heard on the transcript of the record herein in the District Court of Austin County, and it being inspected and the Arguments of Counsel heard, because it seems to the Court here that there is no error therein, it is therefore considered by the Court here that the judgement of the said District Court be in all things affirmed, and that the appellee recover of the appellant her costs in this behalf in this Court expended. Let this affirmance be certified below for execution.

Opinion delivered by Justice Hutchinson.

23. Isaac Guest v. John Guest.

This cause coming on to be heard on the transcript of the record in the District court of Red River county; and it being inspected & the arguments of counsel heard, because it seems to the Court here that the Court below erred in ordering a nonsuit, it is therefore considered by the Court here that the judgement below be reversed and annulled; that this cause be remanded for a new trial had; & that the appellant recover of the appellee his costs in this behalf in this court expended. Let this reversal be certified below for observance & for execution for the costs here adjudged.

Opinion delivered by Justice Scurry.

27. John H Fowler v. Ira S Poor

This cause coming on to be heard on the Transcript of the record herein in the District Court of Red River County, and it being inspected and the arguments of Counsel heard, because it seems to the Court here that there is no error therein, it is therefore considered by the Court here that the judgement of the said District Court be in all things affirmed, and that the appellee recover of the appellant his Costs in this behalf in this Court expended. Let this affirmance be certified below for execution

Opinion delivered by Chief Justice Hemphill

24. Board of Land Com^rs of Red River Co. v. Elizabeth Herring

This cause coming on to be heard on the Transcript of the record in the District Court of Red River County; and it being inspected & the arguments of Counsel heard, because it seems to the Court here that the

Evidence in the Court below, as certified here, is too uncertain to en-
-able This Court to determine This Cause on its merits, it is therefor
Considered by The Court here that The judgement below be reversed
and annulled, That This cause be remanded & a new Trial had, in
That the appellant recover of the appellees his costs in this behalf ex-
This court expended. Let this reversal be certified below for obser-
vance & for Execution for the costs here adjudged.
Opinion delivered by Chief Justice McEmpshill

31. Ex parte Colin DeBland

This matter being a motion made in the District Court of Port Bend
County by Colin DeBland to discontinue all suits on the Dockets
of that Court at the term named in the Transcript, having been
argued by the said DeBland and duly considered by the court
here, is ordered to be Stricken from the Docket, this Court having
no cognizance of the same.
Opinion delivered by Justice Terrell

Philip Webster v. Ann McMillan
Joseph & Nathl Grigsby v. William Moore

These causes are ordered to be continued until the next term of the Court

Several other causes having been argued, the Court adjourned
until tomorrow morning 10 o'clock

Wednesday January 20th 1841

The Court met pursuant to adjournment. Present Chief
Justice McEmpshill, and the associate Justices Bryan, Hans-
-ford, Hutchinson, Scurry and Terrell.

In the matter of the Clerk of this Court

This court having delayed until this day definitive action in
regard to the question whether the Clerks Office of this Court has
been vacated by Wm. D. Gray the incumbent, and being now
advised thereon, because the Court unanimously concur
the opinion that he has vacated the same by accepting
the Office of District Attorney for the [redacted]

and by absenting himself, in the discharge of his duties as district attorney, leaving the clerkship actually vacant: and because the members of this court concur in regarding it as contrary to the constitution and laws to permit both offices to be held by one and the same person; it is therefore now ordered adjudged and decreed by the Court that the Office of Clerk of this Court be from this day, in respect of the said Wm. D. Gray, vacated; and that this Court do proceed to appoint an incumbent, who will be eligible.

The Court appoints Thomas Green Clerk thereof for and during the next four years. Whereupon the said Green takes in open Court the oaths of office and to support the constitution and is directed to give Bond with Sureties as prescribed by law.

Several causes having been argued. the Court adjourns until tomorrow morning 10 oclock.

Thursday January 21st 1841

The Court met pursuant to adjournment - Present Chief Justice Hemphill, and the associate Justices Baylor, Hansford, Hutchinson, Scurry and Terrell.

On motion messrs John Taylor, McFarland, and Jack Jenkins were admitted to practice in this Court as Attorneys Counsellors and Solicitors

Several causes having been argued, the Court adjourns until tomorrow morning 10 oclock.

Friday January 23rd 1841

The Court met pursuant to adjournment - Present Chief Justice Hemphill, and the associate Justices Baylor, Hemford, Hutchinson, Scurry and Terrell.

71. Cannon & Sims v. T Pillsbury
The appellant by his counsel suggest diminution of the record and moved for a certorari to perfect the same

Several caused having been argued, the court adjourns until Monday morning 10 Oclock.

Monday January 25th 1841

The Court met pursuant to adjournment - Present Chief Justice Hemphill, and the associate Justices Baylor, Hemford, Hutchinson, Scurry and Terrell.

26. Ambrose H Elliott & Joseph H Elliott v. Levi M Rice
This cause coming on to be heard on the Transcript of the record herein in the District Court of Red River County, and it being inspected and the arguments of Counsel heard, be cause it seems to the Court here that there is no error therein, it is therefore considered by the court here that the judgement of the said District Court be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this Court expended. Let this affirmance be certified below for execution.
Opinion delivered by Chief Justice Hemphill.

28. Samuel M Bolton surviving partner &c. v. John B Cattrell,
This cause coming on to be heard on the Transcript of the record herein in the District Court of Red River County, and it being inspected and the arguments of Counsel heard, because it seems to the court here that there is manifest error, it is therefore considered by the Court here that the judgement below be reversed and annulled; this cause be remanded and a trial had; and that the ~~appellant~~ appellee pay the appellant

his costs in this behalf in this Court expended. Let this rever sal be certified below for observance and execution.
Opinion delivered by Justice Terrell.

44 Republic v. David Laughlin
This cause coming on be heard on the transcript of the record herein in the District Court of Travis, and it being inspected and the arguments of counsel heard, because there has not been definitive sentence herein by the Court below, it is therefore ordered by the Court here that this cause be remanded to the court below with direction that it proceed to final adjudication, and that the costs in this behalf in this Court abide the result. Let this order be certified below for observance.
Opinion delivered by Justice Baylor.

46. Charles A Reece v. James Smith
This cause came on to be heard on the transcript of the Record herein in the District Court of Travis, and it being inspected, because it seems to the court here, that there is no error therein, it is therefore considered by the Court here, that the judgement of the Court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution.
Opinion delivered by Justice Hutchinson

48. Solomon & Rice v Geo Powell
This cause came on to be heard on the transcript of the record herein in the District Court of Washington, and it being inspected, and the arguments of Counsel heard, because it seems to the Court here, that in the proceedings below there is manifest error, it is therefore considered by the Court here, that the judgement ~~therein~~ by the Court below be reversed and annulled, that the appellants recover of the appellee as well his costs in this behalf in this court expended as the costs in the Court below expended by him prior to the said judgement, and that this cause be remanded to the Court below with instructions to allow the appellee to amend his petition (if he so desire) and the appellant to plead and answer to the merits, and that a new trial be had.
Opinion delivered by Justice Hutchinson

52. A & V Mills v. Col Waller & John Thomas

This Cause coming on to be heard on the Transcript of the record herein in the District Court of Brazoria, and it being inspected and the arguments of counsel heard, because it seems to the Court here that there is no error therein, it is therefore considered by the Court here that the judgement of the Court below be affirmed, and that the appellee recover of the appellants their costs in this behalf in this court expended. Let this affirmance be certified below for execution.

Opinion delivered by Chief Justice Hemphill

Several other causes having been argued, the Court adjourns until tomorrow morning 10 Oclock.

Tuesday January 26th 1841

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hansford, Hutchinson, Terry and Terrell.

On motion Mr Richard Morris is admitted to practice in this court as attorney, Counsellor, and Solicitor.

A case from Liberty being argued the court adjourns until tomorrow morning 10 Oclock.

Wednesday January 27th 1841

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hansford, Hutchinson, Terry and Terrell.

55. M. T. Hall vs. John Bradley

comes the attorney of the appellant and suggests the death of said appellant; and a Scire facias is awarded to revive this cause in the name of the decedents personal representative: but the attorney of the appelle waives that writ, consenting to the revivor by bringing the name of the representative into court.

Several causes having been argued the court adjourns until to-morrow morning 10 Oclock.

Thursday January 28th 1841

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hansford, Hutchinson, Scurry and Terrell.

65. W T Hall v. D.S. Alcorn

The attorney of the appellant suggests his death, and that Susanna Hall is his administratrix, and the adverse counsel consents to the revivor of this cause in her name.

Several causes having been argued and submitted the court adjourns until tomorrow morning 10 Oclock

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Friday January 29th 1841

The court met pursuant to adjournment - Present chief Justice Hemphill, and associate Justices Baylor, Hansford Hutchinson, Scurry and Terrell. - One cause being argued today the court adjourns until Monday morning 10 Oclock

Monday February 1st 1841

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hansford, Hutchinson Lowry and Terrell.

Caples adm.rs v Robinson & Dismissed

52. Benjamin S Grayson v James Cummens

This cause being submitted on the motion of the appellant to remand the same for new trial and the Transcript of the record of the District Court of Colorado being inspected, because it seems to the Court here that the entries of the jury verdict and judgement in this behalf in the Court below are too vague and uncertain either to satisfy the Court here whether a regular Trial was had, or what judgment was rendered, It is therefore considered by the Court here that the postea and judgment below be set aside, that this cause be remanded to the court below, that a new trial be had therein and that the appellant pay to the appellee the costs in this cause in this Court expended, for which execution below may issue

Opinion delivered by Justice Hutchinson.

53. Wm G Hill v. Wm McDermit & wife

This cause coming on to be heard on the transcript of the record herein in in the District Court of Brazoria, and it being inspected, and the arguments of counsel heard, because it seems to the court here that there is no error, except that the judgment below ought to have been for the restitution of the slaves, if to be had with the damages assessed, and if not to be had, then the value and damages assessed, it is therefore considered by the court here, that the said Wm McDermit and Elizabeth his wife recover of the defendant Wm G Hill the slaves Prescilla and Sylvia, if to be had with the damages for detention assessed to ($350) three hundred and fifty Dollars and the costs below; and if said slaves cannot be had, then that they recover of him nine hundred dollars the value of the slaves assessed, together with the damages and costs; and it is further considered that the appellee McDermit and wife, because of this correction of their judgment do pay to the appellant Hill his costs herein in this Court Expended. Let this decision be certified below for execution

Opinion of the Court delivered by Justice Hutchinson

54. James Knight v. Geo Huff adm.r &c

This cause coming on to be heard on the Transcript of the record herein in the District Court of Brazoria, and it being inspected and the arguments of Counsel heard, because it seems to the Court here that the Court below rendered [illegible] allowing the [illegible]

pleaded, and that the judgment herein ought to be revised it is therefore considered by the court here that the said judg= ment be reversed; that the appellee recover of the appellant ($207/100 Two Hundred and Seven dollars and ninety Cents, and his costs here and in the court below expended. Let this revision be cer= tified below for execution.
Opinion delivered by Justice Scurry.

69 Austin v. Ja Sawyer admr &
This cause coming on to be heard on the transcript of the record herein in the District Court of Brazoria, and it being inspected, because it seems to the Court here, that there is no error therein, it is therefore considered by the Court here that the judgment of the Court below be all things affirmed, and that the appel= lee recover of the appellant his costs in this behalf in this Court expended. Let this affirmance be certified below for execution.
Opinion delivered by Justice Scurry

10. Board of Land Comrs Nacogdoches County v. James Reily
This cause coming on to be heard on the transcript of the record herein in the District Court of Nacogdoches, and it being inspected and the ar= guments of the Counsel heard because it seems to the Court here That the proceedings in the Court below were irregular, blending in the trial a plurality of cases, and because all the facts of which the cases were susceptible ~~of~~ admitted below were irregularly admitted and not certified in detail to this court, and this Court being un= willing to decide this cause finally on the matters presented it is therefore ordered and decreed by the Court here that the judg= ments of the Court below in all the cases mentioned in the Tran= script be reversed and annulled; that Each of said causes be remanded and new trials had therein conformably to the prin= ciples settled by the opinion in this behalf, and that the ap= pellants recover of the appellee their costs in this behalf in this Court expended. Let this reversal be certified below for observance and execution.
Opinion delivered by Chief Justice Hemphill

57. Isabella M Andrews v. Edmond Andrews
This cause coming on to be heard on the Transcript of the record herein in the District Court of Brazoria, and it being inspected and the arguments of the Counsel heard, because it seems to the Court here that it cannot take cognizance of this cause on the interlocutory de= cree below. Therefore the appeal is dismissed at the cost of the appellant.

Let this order be certified below for execution.
Opinion delivered by Justice Hansford.

29. Thomas Cayce v. Hinton Curtis

This cause coming on to be heard on the transcript of the record herein in the District Court of Matagorda, and it being inspected and the arguments of counsel heard, because it seems to the court here that there is no ~~error~~ therein, it is therefore considered by the court here that the judgement of the court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution.
Opinion delivered by Justice Terrell.

30. Thomas Cayce v. Horton & Clements

This cause coming on to be heard on the transcript of the record herein in the District Court of Matagorda, and it being inspected and the arguments of counsel heard, because it seems to the Court here that there is no error therein, it is therefore considered by the Court here that the judgement of the court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution.
Opinion delivered by Justice Terrell.

The court adjourns until tomorrow morning 10 Oclock

Tuesday February D° 1841.

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hansford, Hutchinson, Scurry and Terrell.

64 C & O'Conner v. A.N. Van Norsdale

This cause coming on to be heard on the transcript of the record herein in the District Court of Matagorda, and it being inspected and the arguments of counsel heard, because it seems to the court here that there is no error therein, it is [redacted] considered by the

Court here that the judgement of the court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution
Opinion delivered by Justice Terrell

68 McKinney & Williams v. E. C. Bradbury adm'r &c
This cause coming on to be heard on the Transcript of the record herein in the District Court of Brazoria, and it being inspected and the arguments of the Counsel heard, because it seems to the court here that there is manifest error in the proceedings and verdict below, it is therefore considered by the court here that the judgment of the Court below be reversed and annulled, that this cause be remanded and a new trial had therein; and that the appellants recover of the appellee their costs in this behalf in this Court expended. Let this reversal be certified below for observance and execution.
Opinion delivered by Justice Hansford.

70. H. Austin v. E Andrews
This cause coming on to be heard on the record of the Transcript herein in the District Court of Brazoria, and it being inspected and the arguments of the counsel heard, because it seems to the Court here that there is no error therein, it is therefore considered by the Court here that the judgement of the court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for Execution
Opinion delivered by Justice Baylor

65. Wm S. Hall v. P. A Allcorn &
This cause coming on to be heard on the record of the Transcript herein in the District Court of Brazoria, and it being inspected and the arguments of the Counsel heard, because it seems to the Court here that the judgment of the Court below is erroneous: It is therefore ordered and Decreed that the judgment of the Court below be reversed and set aside. And this court proceeding to render the judgment which should have been rendered by the court below. It is farther ordered and decreed by this Court that the Plaintiff recover of each of the defendants below (viz) of Andrew Robinson Dun the sum of Five hundred and Sixty five dollars, and of Wm Barrett the Sum of five hundred and Sixty five dollars, and of P. S. Hall the sum of five hundred and Sixty five dollars and of Wm Sims Hall the Sum of five hundred and Sixty five dollars, Together with interest at the

rate of five per cent per annum from the twenty sixth day of February One thousand Eight hundred and thirty Eight until &c as also all costs in his behalf in the Court below in this case expended: It is further ordered that the appellant recover of the appellee his costs in his behalf in this court expended, and that this judgement be certified below for execution.

66. Henry Austin ad Pl. C. White

This cause coming on to be heard on the record of the Transcript herein in the District court of Brazoria and it being inspected, because it seems to the court here that there is no error therein, it is therfore considered by the court here that the judgment of the Court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution.

Opinion delivered by Justice Hutchinson.

63. Warren D. Hall v. Nathaniel Townsend

This cause coming on to be heard on the record of the Transcript herein in the District Court of Brazoria, and it being inspected, because it seems to the Court here that there is no error therein, but that the appeal to this Court was taken for delay, it is therefore considered by the Court here that the judgment below be in all things affirmed, together with ten per centum damages, to be computed on the principal sum adjudged and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this court expended: Let this affirmance be certified below for execution.

A Written opinion being unnecessary none was delivered

61. Edwin Waller v. E. Andrews

This cause coming on to be heard on the record of Transcript herein in the District Court of Brazoria and it being inspected, because it seems to the Court here that there is no error therein, but that the appeal to this Court was taken for delay, it is therefore considered by the Court here that the judgement below be in all things affirmed, together with ten per centum damages, to be computed on the principal sum adjudged and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for Execution.

A Written opinion being unnecessary none was delivered.

62. Wm. G. Hill v. T. J. Pilgrim

This cause coming on to be heard on the record of the Transcript he[rein]

in the District Court of Brazoria, and it being inspected because it seems to the court that there is no error therein, but that the appeal to this court was taken for delay. It is therefore considered by the court here that the judgment below be in all things affirmed together with ten percentum damages to be computed on the principal sum adjudged, and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution

A written opinion being unnecessary none was delivered.

60. W. T. Austin vs. J. D. Harris et al

This cause coming on to be heard on the Transcript of the Record herein in the District Court of Brazoria, and it being inspected, because it seems to the court here that there is no error therein, but that the appeal to this court was taken for delay; It is therefore considered by the Court here that the judgment of the court below be in all things affirmed, together with ten per centum damages to be computed on the principal sum adjudged, and added to the amount recovered, and that the appellee recover of the appellants his costs in this behalf in this court expended. Let this affirmance be certified below for execution

A written opinion being unnecessary none is delivered.

59. Wm G Hill vs. Edwin Waller

This cause coming on to be heard on the Transcript of the Record herein in the District Court of Brazoria, and it being inspected, because it seems to the Court here that there is no error therein, but that the appeal to this Court was taken for delay; It is therefore considered by the Court here that the judgments of the court below be in all things affirmed, together with ten per centum damages to be computed on the principal sum adjudged, and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution.

A written opinion being unnecessary none is delivered.

The court adjourns until tomorrow morning 10 Oclock.

Wednesday February 3rd 1841

The court pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hansford, Hutchinson, Henry, and Terrell.

Sam'l. Whiting v. Clk Harris County

This cause is ordered to be docketed.

45. Townsend v. Sheff. of Travis County. - dismissed for want of jurisdiction

The court adjourns until tomorrow morning 10 o'clock

Thursday February 4th 1841.

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hansford, Hutchinson and Terrell.

Leander Wescott v. P. A. Menard

Adams Van Winkle & Co. v. James Priestley

Andrew Briscoe v. Eliza H. Carri & others.

Albert W. Springer v. Pierre (or Peter) Blanchet

On motion these causes are severally ordered to be docketed.

One cause having been argued the court adjourns until tomorrow morning ½ past 9 O'clock.

Friday February 5th 1841

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hutchinson, Henry, and Terrell.

Thomas Green Clerk of this Court having entered into Bond with Wm. H. Jack, Isaac Van Zandt, John Menchion and Samuel F.

Mayfield his sureties for the discharge of his duties as such, it is approved by the Court and ordered to be filed according to law

Josiah S. Crosby v. Felix Huston
This cause was ordered to be docketed

Several causes having been argued the Court adjourns until To-morrow morning 10 oclock.

Saturday February 6th 1841.

The court met pursuant to adjournment - Present Chief Justice Hemphill, and associate Justices Baylor, Hutchinson and Terrell; and there not being a quorum the Court adjourns until Monday morning 10 oclock.

Monday February 8th 1841.

The court met pursuant to adjournment - Present Chief Justice Hemphill; and associate Justices Baylor, Hutchinson and Terrell: and there not being a quorum the court adjourns until Tomorrow morning 10 oclock

Tuesday February 9th 1841

The court met pursuant to adjournment - Present chief Justice Hemphill, and associate Justices Baylor, Hutchinson, Scurry and Terrell:

13. Henry Raguet v. Geo. A. Nixon
This cause coming on to be heard on the Transcript of the record herein in the District Court of Nacogdoches, and it being considered by the Court, and the arguments of Counsel heard, because it seems to the Court ~~here~~ that the court below did not err in dismissing

The appellants proceed &c. It is Therefore Considered by the Court here that his appeal to this Court be dismissed, and that the appellee recover of the appellants his costs in this behalf in this Court expended. Let this judgement be certified below for execution.
Opinion delivered by Chief Justice Hemphill.

12. Board Land Comrs Nacogdoches Co. v. Frederick W. Wrede
In this case there being no statements of facts, bills of exceptions or Errors alledged or appearing on the transcript it is considered by the Court here that the appeal be dismissed, and that the appellee recover of the appellants his costs in this behalf in this court expended. Let this judgement be certified below for execution.
Opinion delivered by Chief Justice Hemphill.

15. John Cartwright vs John S Roberts.
This cause coming on to be heard on the transcript of the record herein in the District court of Nacogdoches, because it seems to the Court here that there was no appeal taken herein, it is therefore ordered that this cause be stricken from the docket at the cost of the said John Cartwright. Let this order be certified below for execution.
Opinion delivered by Chief Justice Hemphill

56. W D.C. Hall v Wm B Aldridge.
This cause coming on to be heard on the transcript of the record herein in the District Court of Brazoria, and it being inspected and the arguments of Counsel heard, because it seems to the Court here that there is no error therein, it is therefore considered by the Court here that the judgement of the Court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this Court expended. Let this affirmance be certified below for execution.
Opinion delivered by Chief Justice Hemphill.

25. John Morton v Geo Gordan &c
This cause coming on to be heard on the Transcript of the record herein in the District Court of Red River, and it being inspected and the arguments of Counsel heard, because it seems to the court here that there is error herein, it is therefore considered by the Court that the judgment of the Court below be reversed and annulled and this Court proceeding to render the judgement that ought to

have been rendered in the court below; it is therefore considered by the court here That the appellees Gordon and Alley as administrators &c. recover of the appellant Morton the sum of Twenty Three Dollars and Eighteen cents with legal interest from the rendition of this judgment until paid, and that the appellees pay the costs in this court expended, and appellant the costs in the court below. Let this revision be certified below for execution.

Opinions delivered by Justices Baylor and Terrell.

74. Daniel P. Cort &c. vs. Saml. C. Hirams &c

This cause coming on to be heard on the transcript of the record herein in the district court of Liberty, and it being inspected and the arguments of Counsel heard because it seems to the Court here that sundry issues aught to be sent and tried by a jury in the said District Court It is therefore ordered and decreed by this Court That the decree rendered herein be set aside; That this Cause be remanded: That the court below do submit to the verdict of a jury the following issues, viz To whom did John Berry transfer his improvement and occupancy of the land in controversy, whether to Campbell Berry or to the Defendant Hirams, or whether he abandoned the land? 2 What title, if any has the plaintiff to the land: is it fair and valid, or otherwise? 3. What title to the land has the defendant Donohoe, if any: is it fair and valid, or otherwise? 4. What effect, if any, had the agreement and relation between the defendants upon the title of Donohoe? Let the court below, upon these issues instruct the jury as to the laws governing the matters involved, and by aid of the verdict proceed to decree finally as to law and equity may appertain. It is also considered here that all the evidence heretofore heard by the court below, and sent up on the Transcript including the answer of Hirams That are responsive to the interrogatories to him, be used on the trial of the issues with such other oral testimony as the parties may produce. It is further ordered and decreed here that the appellants recover their costs in this behalf in this court. Let this revisory decree be certified below for observance.

Opinion delivered by Justice Hutchinson

67. W. D. C. Hall v. S. A. C. Phelps

This cause coming on to be heard on the transcript of the record herein in the District Court of Brazoria and it being inspected and the arguments of Counsel heard, because it seems to the Court here that there is no error in the Court below, it is therefore or-

dered by the court here that the decree of the court below be in all things affirmed; that the apellee recover of the apellant the costs by him in this behalf in this court expended, and that this affirmance be certified below for execution.
Opinion delivered by Justice Hutchinson.

9. Josiah F Stafford v. Isaac Parker
This cause coming on to be heard on the transcript of the record herein in the District Court of Houston and it being inspected and the arguments of Counsel heard, because it seems to the court here that the verdict and judgment below are too vague and imperfect to enable this Court to review the same; It is therefore considered by the court here that the same be set aside; that this cause be remanded and a new trial had; that the costs herein in this court abide the final determination of the cause in the court below, and that this decision be certified below for observance.
Opinion delivered by Judge Terrell.

16. W M Williamson agt & v. Sam Houston President
This day comes the apellee by his counsel and moves the court to permit him to confess error and to remand the cause for a new trial in order to the introduction on such trial of facts occurring since the judgment below, and which are now suggested by the counsel; and for reasons satisfactorily appearing to the Court here it is permitted: It is therefore considered by the court that the judgment below be reversed and a new trial had below, that the apellee pay the costs of this cause in this court expended, and that this decision be certified below for observance

51. Monroe Edwards v. Catherine Dart admx
In this case the Counsel for the apellee presenting his affidavit therefor moved the Court to continue this cause and agreed to enter of Record That a supersedeas of the judgment of the court below as the court might direct, should issue and for reasons appearing to the Satisfaction of the Court it is ordered that this cause be continued, and that a supersedeas issue to the Court below restraining that Court from issuing any execution or writ of sale upon any judgment or order that may have been entered therein or on any collateral branch of this cause, particularly executions ordered in favor of Robert A Calder Sheff & ca to stay any such process if already issued, until the ca

or judgment of this court shall be had thereon

80. S & S Crosby v. Felix Huston

For reasons appearing to the court it is ordered that the appellant do execute his bond in the penalty of double the amount of the judgment herein in the court below with two or more good sure-ties to be approved by the Clerk of Harris County with the usual condition of an Appeal Bond to be given within thirty days from and after the date of this order and if it be not so given that the appeal in this case shall be dismissed

43. Thos J Smith v. Republic of Texas

This cause coming on to be heard upon the transcript of the record herein in the District Court of Travis and the same being inspected and the arguments of Counsel heard because it seems to the Court here that there is no error therein it is therefore considered by the Court that the judgment and sentence be in all things affirmed, that the appellant pay the costs in this behalf in this Court expended and that this decision be certified below for execution.

Opinion delivered by Justice Hansford

73 Pease & Towns v. David Randon

This cause coming on to be heard on the transcript of the record herein in the District Court of Port Bend, and it being inspected and the arguments of Counsel heard, because it seems to the Court here that the court below erred in admitting evidence without corresponding allegations in the pleadings &c It is therefore considered by the Court here that the judgment below be reversed, and this cause remanded with leave to the appellee to plead or answer further; that a trial de novo be had, that the appellee pay the costs in this cause in this Court expended, and that this decision be certified below for observance

71. Cannon & Sims v. Timothy Pillsbury

On motion of the Appellant by Abner S Lipscomb his attorney suggesting Diminution of the Record in this case and ~~xxx~~ ~~this~~ cause and it appearing from the affidavit of said attorney that the Transcript sent up is imperfect. It is therefore ordered by the Court that a certiorari issue to the Court below requiring a full and perfect transcript of the record to be transmitted here.

Saml Whiting v. Wm Pillis

It appearing to the court that the plaintiff in this cause has taken an appeal from the decree rendered by the District Court of Harris and that Bond and Security have been given according to law to prosecute said appeal, and it also appearing that the Clerk of the said District Court of Harris has failed to make out and send up the transcript of the Record in said cause though requested and urged to do so by the said plaintiff: It is therefore ordered that the said clerk make out and deliver to said plaintiff a full and complete transcript of the record in said cause in order that the same may be placed upon the Docket of this Court on or before the first day of the next term thereof, or that he then and there show cause why the same shall not have been done and that the said cause stand continued until the next term of this Court.

Saml Whiting v. St John Fraber &c

It appearing to the court that the said Saml Whiting the defendant in the above stated cause in the District Court of Harris prayed an appeal from the judgement rendered in the same at the Spring Term 1840 of said Court, which said appeal was then and there allowed, and it also appearing that Bond and Security was duly filed by said Whiting according to law, to prosecute said appeal and it further appearing from the affidavit of said Whiting filed in this Court that he has been unable to obtain a transcript of the record in this case to bring up to this Court in consequence of the neglect and refusal of the acting clerk of said District Court to make out the same as he was required to do; It is therefore ordered that the said clerk make out and deliver to said Whiting a full and complete Transcript of the record in said cause in order that the same may be filed in this Court on or before the first day of the next ensuing term thereof, or that he then and there show cause why the same has not been done and it is further ordered that this cause stand continued until next term of this Court.

Saml Whiting v. The Exrs. of Birdsall

It appearing to the court that the said Saml Whiting the defendant in the above stated cause in the Court below prayed ~~xxxx~~ ~~xxxxxx~~ from the judgment rendered in the District Court of Harris prayed an appeal from the judgment rendered in the same ~~at the~~ Spring Term 1840 of

said Court which said appeal was then and there allowed and it also appearing that Bond and Security was duly filed by said Whiting according to law to prosecute said appeal and it further appearing from the affidavit of said Whiting filed in this Court that he has been unable to obtain a Transcript of the record in said cause in order that the same may be filed in this Court on or before the first day of the next ensuing term thereof, or that he then and there shew cause why the same has not been done, and it is further ordered that this cause stand continued until the next term of this Court.

Same Whiting v. Tanner

It appearing to the court that the said Samil Whiting Defendant in the above stated cause in the District Court of Harris prayed an appeal from the judgment rendered in the same at the Spring Term 1840 of said Court, which said appeal was then and there allowed and it also appearing that Bond and Security was duly filed by said Whiting according to law, to prosecute said appeal, & it further appearing from the affidavit of said Whiting filed in this Court that he has been unable to obtain a Transcript of the record in said case to bring up to this Court in consequence of the neglect and refusal of the acting Clerk of said District Court to make out the same as he was requested to do; it is therefore ordered that the said District Court clerk make out, and deliver to said Whiting a full and complete Transcript of the record in said cause in order that the same may be filed in this Court on or before the first day of the next ensuing term thereof, or that he then and there shew cause why the same has not been done and it is further ordered that this cause be continued until the next term of this Court.

Samil Whiting v. Dwight & Co

It appearing to the Court that the said Samil Whiting the Defendant in the above stated cause in the Court below prayed an appeal from the judgment rendered in the same at the Spring Term 1840 of said Court which said appeal was then and there allowed, and it also appearing that Bond and Security was duly filed by said Whiting according to Law to prosecute

said appeals, and it further appearing from the affidavit of said Whiting filed in this Court that he has been unable to obtain a Transcript of the record in said case to bring up to this Court in consequence of the neglect and refusal of the acting clerk of the District Court of Harris to make out the same as he was requested to do: It is therefore ordered that the said clerk make out and deliver to said Whiting a full and complete transcript of the record in said cause in order that the same may be filed in This Court on or before the first day of the next ensuing Term thereof, or that he then and there shew cause why the same has not been done and it is further ordered that This Cause Stand Continued until the next Term of this Court.

Jane Whiting v. P. H. Greives.

It appearing to the court that the said Jane Whiting the Defendant in the above stated cause in the District Court of Harris prayed an appeal from the judgment rendered in the same at the Spring Term 1840 of said Court, which said appeal was then and there allowed, and it also appearing that Bond and Security was duly filed by said Whiting according to law to prosecute said appeal, and it further appearing from the affidavit of said Whiting filed in this Court that he has been unable to obtain a transcript of the record in said case to bring up to this Court in consequence of the neglect and refusal of the acting clerk of said District Court to make out the same as he was requested to do: It is therefore ordered that the said clerk make out and deliver to the said Whiting a full and complete transcript of the record in said cause in order that the same may be filed in this court on or before the first day of the next ensuing Term thereof, or that he then and there shew cause why the same has not been done, and it is further ordered that this cause be continued until the next term of this Court.

Cunningham v. League

It appearing to the Court that the said Thomas M League the Defendant in the above stated cause in the District Court of Harris prayed an appeal from the judgment rendered in the same at the Spring Term 1840 of said Court, which said appeal was then and there allowed and it also appearing that bond security was duly filed by said League according to law to prosecute said appeal and it further appearing from the affidavit of Robt. Morris also for said League filed in this Court that he has been

unable to obtain a transcript of the record in said case to bring up to this Court in consequence of the neglect and refusal of the acting clerk of said District Court to make out the same as he was requested to do: It is therefore ordered that the said clerk make out and deliver to the said Teague a full and complete transcript of the record in said cause in order that the same may be filed in this Court on or before the first day of the next ensuing Term thereof or that he then and there shew cause why the same has not been done, and it is further ordered that this cause be continued until the next term of this Court.

11. Roberts & Allen v Victor David
14. Board of Land Com^rs Nacogdoches v. 36 Raguet & C
17. Isse Benton v. Eli Williams
20. Jacob Garrett adm^r &c v. John D Nash & wife
35. Raymond Daily v. Charles Chevallier
36. James Lansing v Sam^l Stivers
39. Ann Daily v. Nancy Bodine adm^rtrix &c
40. Nancy Bodine v Ann Daily
41. Alexander Kirkman v Jacob Snively
76. Leander Wescott v. P. J. Menard &c
77. Adam Van Winckle &c v. James Priestley
78. Andrew Briscoe v Eliza H Corri &c
79. Albert W Springer v. Piere (or Peter) Blanchet
81 ~~Henry Kesler & others v Mary Kesler adm^rtrix &c~~
Magill & Wife v A. C. Delaplaine

These causes are ordered to be continued unto the next term of the Court

81. Henry Kesler & others v Mary Kesler adm^rtrix &c

By consent of the Counsel. This cause is Docketed and a writ of error with citation to hear Errors returnable to the next term are awarded

Jane Lockhart

John D. Harris

On the motion of the appellant by his attorney, and for reasons appearing to the court, a mandamus to the Clerk of the Court below is awarded commanding him to send up to this Court on or before the first day of the next term a full Transcript of the record, or deliver it to the appellant, or that he shew cause at the next term why he shall not have so done at his peril.

All causes not heard specially continued or otherwise

disposed of are now continued

The Court adopts the following additional Rules and modifications of those existing for the government of the practice in this Court:—

Rule 17.

The fifth Rule is amended so as to require that where either party fails to appear the other may proceed ex parte, unless upon good cause existing or appearing for postponement or continuance.

Rule 18.

The eleventh rule is rescinded. Counsel will be admitted in this court on motion, the Court being satisfied that those introduced have been regularly licensed: and the clerk shall keep and continue a roll of them in the order of their admission

Rule 19.

Ordered that the clerk of this Court reside and keep his office at the place of holding this court.

Rule 20.

Neither the Transcript nor any of the papers in any case shall be withdrawn from the clerk, or out of the court room without leave of the Court, and a Receipt left.

The Court adopts for the Practice of the District Court in addition to former Rules

Rule 34

No Attorney, during the trial and argument of a cause shall make any statement of facts, connected either with the causes or the parties thereto, which are not testimony upon pain of being held in contempt.

The preceding minutes having been examined & ratified, the Court adjourns until the next term

John Hemphill — Chief Justice

A Hutchinson
Recurry
R. E. B. Baylor.
G. W. Terrell
} Judges

Be it remembered that on the tenth day of January 1842, being the second Monday thereof, at the court room in the city of Austin the Supreme Court of the Republic of Texas met pursuant to law. Present the honorable John Hemphill, chief justice, William J Jones judge of the 2nd, Robert E B Baylor of the third, Abner Lipscomb of the fourth and William Bochelton of the fifth judicial district— Thomas Green clerk and Charles F. Kenny sheriff of Travis county— in attendance upon the court—

The chief justice read in court the letter of the hon John M Stanyan— which is ordered to be entered on the minutes & is in these words:—

Austin January 10th 1842.

To the Hon John Hemphill Ch. Justice of the Republic of Texas

Sir

My attendance at the seat of Govt. at this time was expressly for the purpose of participating with you and your honorable associates in the labor of holding the Supreme Court, but in consequence of charges having been preferred against me by the Hon. House of Representatives, impeaching me for misdemeanors in office (official notice of which has this day been received by me) I deem it both indelicate and improper to sit on the Supreme bench, or to perform any of the functions of a judicial officer, until the final termination of the impeachment.

Please sir make this my determination known to your honorable associates for whom as judicial officers and as gentlemen, I have the highest regard.

With sentiments of high consideration for you individually, and as a public officer, I remain Your obedient humble servant John M. Stanyan

Judge of the 7th Judicial District

And the Court adjourned until tomorrow morning 10 o'clock.

Tuesday January 11, 1842

The court met pursuant to adjournment
Present the Chief Justice and associate Justices
as present on yesterday—

34. J & N. Gregory v. H. Moore

The attorney of the appellant suggests that since the last term the appellant departed this life, and a scire facias is awarded to revive this cause in the name of the decedents personal representative

18. Allen Pence v Sally Pence
105. Bullard v Rogers & Ward
127. Fitzgerald v Ward

These causes are severally submitted for affirmance on the transcripts as appeals taken for delay merely.

101. Fuller v. Braddock

This cause is submitted on the transcript by the appellees counsel as an appeal for delay merely.

115. Holtsclaw v Sanders

The counsel of the appellant suggests that since the last term the appellant departed this life, and a scire facias is awarded to revive this cause in the name of the decedents personal representative

On motion James H Ballard & James L Ewing attorneys, are admitted to practice in this court.

The Court adopts the following Rule.

The Counsel for the appellant may receive & obtain for two days the transcript of the record, on leaving a receipt therefor; and the adverse counsel may have the like privilege; but no original paper or papers in a cause, sent up, shall be withdrawn from the clerks office or passed on, without leave of the court.

John Smith v. The Republic

This cause is ordered to be docketed.

The Court adjourns until tomorrow morning 10 o'clock

Wednesday January 12. 1842.

The Court met pursuant to adjourn=ment, present Chief Justice Hemphill, and associate Justices Baylor, Hutchinson, Jones and Ochiltree

On motion the following attorneys were admitted to practice in this Court.

Ira R. Lewis
C. W. Buckley
Chas. H. Raymond
Wm. E. Jones
Stephen F. Andrews
Ebenezer Allen
Willard Wadham

On motion it is ordered that all the causes which have come up since the first day of the Term be docketed

14— 6 Ala Great v. Haggerty and Sons
Come the parties by their counsel by whose consent it is ordered and decreed by the court that the decree herein of the District Court of Brazoria County be in all things affirmed, that the appellee recover of the appellant his costs herein in this Court expended, and that this affirmance be certified below for obtain=ance.

28— 11. Roberts and Allen v. Victor David
38. Elijah Stephenson v. Wm. B. Hawkins
103. Williamson & Brenman v. Wm Barker

Three causes are ordered to be continued until the next Term of the Court.

55. Swanwick Hall admr of W. L. Hall v. John Bradley
Dismissed as an appeal for delay only

On motion of the Attorney General it is ordered that the causes in which the Re=

Republic is a party, be dismissed to be reversed on Thursday the 20th inst.

108 Republic v. Jas F. Wardy adm'r of Jeffie Brown.

Come the parties by their counsel, and by consent of the attorney General, it is ordered and decreed by the Court, that the decree herein of the District Court of Red River county be in all things affirmed, and this affirmance be certified below for observance.

111. Republic v. Rich? M. Hopkins adm'r of J. J. Dobbins

Come the parties by their counsel and by the consent of the attorney General, it is ordered and decreed by the Court that the decree herein of the District Court of Red River County be in all things affirmed, and this affirmance be certified below for observance.

133. Lanham v. Republic

This cause is submitted to the Court on the transcript of the Record.

5. Perry v. Westall & Hill, and 6. Hill & Wife v. Perry

Affidavits for continuance submitted by Wm. H. Jack Esq Counsel for Perry a/k/a Pollard and Perry a/k/a Pelleo.

The Court adjourned until tomorrow morning 10 o'Clock.

Thursday 13. January 1842.

The Court met pursuant to adjournment. Present Chief Justice Hemphill and Associate Justices Bryan, Hutchinson, Jones, Lacy, and Webster.

On motion the following attorneys were admitted to practice in this Court, Viz:

J. Sullivan John D. Anderson ait &c vs. T. Mills Esq'rs.

47. Whiting v. Finley

This cause was argued and submitted to the Court

The Court adjourns until tomorrow morning 10 o'Clock.

Friday January 14. 1842.

The court met pursuant to adjournment present Chief Justice Hemphill and Justices Bryan, Hutchinson, Jones, Jack and Ochiltree

The Court determines to hear the causes by Districts in the following order, to wit, 7th 2nd 1st 5th 4th 6th 3rd

The court have had under consideration the motion of William H. Jack Esq. to continue the causes of Hill v. Perry and Perry v. Hill and after mature deliberation have determined to hear the causes at this term, reserving for themselves the right of holding up the causes for decision until the next term.

On motion Isaac Vanzandt Anthony B. Shelby and G. W. Terrell attorneys were admitted to practice in this Court.

109. Donoho v. Republic

Continued until the next term of the Court

54

Anthony B. Shelby v. Thomas Johnson appeles

The appellant in this cause moves for Certiorari directed to the Clerk of the District Court of Gonzales County to make out and transmit to this Court a full and Complete Record of the above Styled Cause which was tried and determin=ed at the last April Term of said District Court, duly Certified, it appearing that the Record heretofore sent up has been lost or mislaid, it is therefore ordered by the Court here that a Certirari be accordingly award=ed, returnable forthwith.

Several causes having been argued the Court adjourns until tomorrow morning 10 o'Clock.

Monday January 17th 1842.

The Court met pursuant to adjournment, present Chief Justice Hemphill, and Justices Bayler Hutchinson Jones Lacy and Archer

55. Susanna Hall admr. v. John Bradley

This cause coming on to be heard on the trans=cripts of the Record below, and the same being inspected, he cause it seems to the court that there is no error therein but that the appeal to this Court was taken for delay, It is therefore Considered by the Court here that the judgment below be in all things affirmed together with ten per centum damages to be computed on the principle sum adjudged and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this Court expended, Let this affirmance be certified below for execution.

18. Allen Vince v. Isley Vince

Came the parties by their Counsel by mutual con-

Rank, it is ordered and decreed by the Court that the decree herein of the District Court of Harris County be in all things affirmed; that the appellee recover of the appellant her costs herein in this Court expended and that this affirmance be certified below for observance.

Several Causes having been argued the Court adjourns until tomorrow morning 10 o'Clock.

Tuesday January 18. 1842

The Court met pursuant to adjournment present Chief Justice Hemphill and Justices Baylor, Hutchinson, Jones, Jack, Morris and Achilles

On motion Benjamin A. Franklin Esq. attorney was admitted to practice in this Court.

47. Whiting v. Turley

This Cause coming on to be heard on the transcript of the Record herein in the District Court of Travis County and it being inspected because it seems to the Court here, that the Court below erred, It is therefore considered by the Court here and so ordered that the judgment below be totally reversed, that the appellee pay the Cost in this Cause in this Court expended and this decision be certified below for execution.

94 Ingram v. Denison Counsellor

On motion and affidavit of appellee the Cause was continued until the next term of the Court

Mary Phillips v. Alanson Lyons
Thomas Hamilton v. Jacob Woods

Rep of Texas V. A.M. Fontains

On Motion these Causes are Severally ordered to be docketed.

5– 2. James F Perry executor of Stephen F. Austin and Emily M. wife of said James F. appellants V. William G. Hill and Eliza M. Westall his wife.

Supreme Court of the Republic of Texas Setting at the City of Austin January Term 1842.

At this term came the parties appellants and appellees in their own proper persons and submit to the Court now here, that they had the appellants on their part referred the matters and things in controversy in this cause to Jo le Watrous Esq. with full powers to compromize and amicably adjust the matters in controversy herein, and the said appellees had appointed on their part Moseley Baker Esq with the like full powers and the said parties appellants and appellees "bring now here into Court the following agreement of compromise made and entered into by their respective agents and referees which they pray to be entered of Record in this cause as part of the judgment and decree in this cause, which agreement is in the words following, to wit,

"This agreement made and entered into this 17th day of January A.D. 1842. between Moseley Baker acting as the agent and attorney in fact of William G. Hill and his wife Eliza M. Hill formerly Eliza M. Westall and John Jo Watrous acting as the agent and attorney in fact of James F Perry and his wife Emily M. Perry— Witnesseth that in conformity with the powers vested in them, agree, that in the suit now pending in the Supreme Court of William G Hill and Eliza M his wife, formerly Eliza M Westall for the recovery of their interest of the estate descended and devised by the late Wm. Stephen Austin to the said Eliza M. Westall— that the defendants Counter claim now on the docket and the decree for William G. Hill and Eliza M his wife

for one half of the amount of the property sued for, The lands Stephen F Austin in his will as his property, the titles to which are in the name of James & Austin are not to be considered as the property of the late Stephen F. Austin, nor as forming any part of the property sued for, and that the rehalf of the interest in the contract of the Empresarias Austin & Williams for settling eight hundred families shall be decreed to James F Perry and his wife Emily M Perry, and it is further agreed that in the case of James F Perry executor of Stephen F Austin against William G Hill and his wife Eliza M Hill for various tracts of land that judgment shall be rendered for the defendants, the plaintiffs relinquishing all and any equitable claims to the lands in question in the said suit, and it is agreed that William G Hill and wife shall execute to James F. Perry and wife a receipt acknowledging the receipt of five thousand Dollars to be deducted from the proportion they may be entitled to on account of the San Luis property, and this is given on account of the understanding that Benjamin F Smith is entitled to one third of the interest in the Empresario Contract of Austin and Williams, for settling eight hundred families, and should the said third not prove to be the property of said Smith or any third person, but be that of Austin and Williams, then and in that case the said Perry and wife are bound to refund to the said Hill and wife the said five thousand Dollars, and it is further agreed that the Contracts entered into between Stephen F Austin and Gustavus Edwards for two labors of land, and the one between Stephen F Austin and James Lynch as to seven labors of land shall be complied with and carried into effect

Recorded Baker for Hill and wife
Fisher & Allen for Perry and wife

And the said parties now here pray the Court to render a judgment and decree according to the foregoing agreement, in this cause.

It is therefore ordered adjudged and decreed that William G Hill and Eliza M. his wife, in right of the said Eliza M. recover the one half of the property sued for in this suit with the exception contained in the agreement aforesaid of the interest in the Empresario Contract of Austin and Williams for Colonizing eight hundred families, and it is further ordered adjudged and decreed, that the said William G Hill and wife shall pass the receipts as provided for in the agreement aforesaid under the conditions therein contained, and it is ordered adjudged and decreed that the said William G Hill and wife shall be forever barred from recovering any greater portion of the property sued for in this suit, and it is further ordered and decreed, that the Contracts between Stephen F Austin and Gustavus Edwards, and that between him the said Stephen F Austin and James Lynch shall be ratified by the said William G Hill and Eliza M his wife and it is further ordered adjudged and decreed that the cost be equally divided between the parties, each paying one half.

6— 3. William G Hill and Eliza M his wife appellants V. James F Perry Executor of Stephen F Austin appellee.

(1 Supreme Court of the Republic of Texas Sitting at the City of Austin January Term A.D. One thousand eight hundred and forty two.

At this term came the parties aforesaid and the appellee in their own proper person and did not move here to the Court, that they had, the appellants on their part against the matters and things in controversy in this cause to Moseley Baker Esq might file herein to compromise and amicably adjust the matters in

Conrey thereon, and the said appellee on his part, had appointed John C Watson Esq with the like full powers, and the said parties, the appellants and the appellees bring now here into Court the following agreement of compromise. made and entered into by their respective agents and referees, which they pray to be entered of Record in this cause as part of the judgment and decree in the cause, which agreement is in the words following, Viz. This agreement made and entered into this 17th day of January 1842. between Moseley Baker acting as agent and attorney for William I Hill and Eliza M. Hill his wife formerly Eliza M Westall, and John C Watson acting as the agent and attorney in fact of James F. Perry and his wife Emily M. Perry. Witnesseth, that in Conformity with the powers vested in them agree that in the Suit now pending in the Supreme Court of William I Hill and Eliza M his wife, formerly Eliza M Westall for the recovery of that portion of the estate bequeathed and devised by Stephen F Austin, to Stephen F Austin Junior, that the Supreme Court shall pass a judgment and decree for William I Hill and Eliza M Hill his wife for one half of the amount of the property sued for. The lands disposed of by said Stephen F Austin in his will as his property the titles to which are in the name of James E.B. Austin, are not to be considered as the property of the late Stephen F Austin nor as forming any part of the property sued for, and that the whole of the interest in the contract of the Empresarios Austin and Williams for settling eight hundred families, shall be vested to James F Perry and Emily M Perry his wife, and it is further agreed that in the case of James F Perry Executor of Stephen F Austin against William I Hill and Eliza M Hill for one tract of land that judgment shall be rendered for the Defendants

the plaintiff relinquishing all and any equitable claim to the lands in question, and it is agreed that William D Hill and wife shall execute to James F Perry and wife a receipt acknowledging the receipt of five thousand Dollars to be deducted from the proportion they may be entitled to on account of the San Luis property, and this is given on account of the understanding that Benjamin F Smith is entitled to one third of the interest in the Empresario Contract of Austin and Williams for the Settling of eight hundred families, and should the said third not prove to be the property of the said Smith or any third person, but be that of Austin and Williams, then and in that case, Rhoda Perry and wife are bound to refund to the said Hill and wife, the said five thousand Dollars, and it is further agreed that the Contract entered into between Stephen F Austin and Gustavus Edwards for two Labors of land, and the one between Stephen F Austin and James Lynch for four Labors of land shall be complied with and carried into effect.

Wrigley Baker for Hills wife
John C Watrous for Perry wife

And the said parties now here pray the Court to enter a judgment and decree according to the foregoing agreement in this case.

It is therefore ordered adjudged and decreed that the title to the land sued for in this cause in Eliza M Hill wife of the said William D Hill subject however to the provisions of the agreement aforesaid, as to the contracts of Stephen F Austin with Gustavus Edwards and James Lynch, and the said James F Perry Executor of the estate of Stephen F Austin, and the heirs of Stephen F Austin are respectively entitled from and after the payment of the purchase money aforesaid that the costs be equally

divided between the parties, each paying one half.

152. Hewett V. Robinson

This cause was continued until the next Term of the Court

Several causes having been argued the Court adjourns until tomorrow morning 10 o'clock.

Wednesday January 19. 1842.

The Court met pursuant to adjournment present Chief Justice Humphries and Justices Baylor, Hutchinson, Jones, Jack and Morris.

105. Ballard V. Rogers & Ward

This cause coming on to be heard on the transcript of the Record herein in the District Court of Red River County, and it being inspected, because it seemed to the Court here that there was no error in the decree below, It is therefore ordered adjudged and decreed that the judgment of the Court below in this cause, be in all things affirmed, and the appellee recover of the appellant his costs in this cause in this Court expended, and this decision be certified below for execution.

Opinion delivered by Ch. J. Humphries

On Motion James P. Lowry an attorney was admitted to practice in this Court.

156. Stein V. Montgomery

On Motion this cause was again passed for argument

Second Wednesday succeeding these

argued the Court adjourned until tomorrow morning 10 o'clock

Thursday January 20. 1842.

The Court met pursuant to adjournment present Chief Justice Demphill and Justices Baylor Hutchinson Jack Morris and Ochiltree.

102 Hiram Sadler v. Lindley Johnson

This cause coming on to be heard on the transcript of the Record herein in the District Court of Lamar County, and it being inspected, because it seems to the Court here that there is no error in the decision below, it is therefore ordered adjudged and decreed that the judgment of the Court below be in all things affirmed. That the appellee recover of the appellant his costs in this cause in this Court expended, and this judgment be certified below for execution.

Opinion delivered by Justice Ochiltree

Several Causes having been argued the Court adjourns until tomorrow morning 10. o'clock.

Friday January 21. 1842.

The Court met pursuant to adjournment present Chief Justice Hemphill and Justices Baylor Hutchinson Jack Morris and Miles.

99 James Vil McDonald

On motion of appellants Counsel and this cause is ordered, and the cause continued until the next Term.

Several Causes having been argued the Court adjourned until Monday morning 10. o'clock

Monday January 24th 1842.

This court met pursuant to adjournment present Chief Justice Stanphill and Justices Baxter Hutchinson Scott Morris and Mills.

90. Hart v. Seitz ex'r.

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected, because it seems to the Court here from an inspection of the Record that there is no legal ground upon which judgment should have been rendered by the District Court for the Defendant upon his demurrer to the plaintiffs petition & for the order that the Defendant should have oyer of the notes sued upon at the time of the demand, it is therefore the opinion of the Court here that the judgment of the District Court of Bowie is erroneous, and it is hereby ordered adjudged and decreed that the cause be reversed and remanded for a new trial upon the merits.

Opinion delivered by Justice Jones.

104. Butler v. Morton.

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected, because it seems to the Court here that there is no error in the judgment of the Court below, it is therefore ordered adjudged and decreed. that the judgment of the Court below be in all things affirmed, and that the appellee recover of the appellant his costs in this behalf in this Court expended, and that this decision be certified below for execution.

Opinion delivered by Justice Scott.

Wm. Simmons v. Matthews.

This cause coming on to be heard on the

transcript of the Record of the court below, and it being inspected, because it seems to the court here that the judgment of the court below was erroneous. It is therefore ordered adjudged and decreed that the judgment of the court below be, and the same is hereby reversed, and that the cause be remanded for new trial. Let this decision be certified below for execution.

Opinion delivered by Ch. J. Memphill.

In the cause of Sloo & Byrne v. Powell, the word "security" was stricken out of the transcript and the word "bond" inserted, by agreement of Counsel, it being evidently an error of the clerk below.

On motion, Moseley Baker Esq. an attorney, was admitted to practice in this court.

51 Edwards v. Dart

This cause having been argued the court adjourned until tomorrow morning 10. o'Clock

Tuesday January 25. 1842.

The court met pursuant to adjournment present Chief Justice Memphill, and Justices Baylor Hutchinson Morris and Mills

51. Edwards v. Dart

The argument in this cause was continued.

The court adjourned until tomorrow morning 10 o'Clock.

93. Hatch v. Gray

On the motion of the counsel for the appellant, a writ of certiorari was awarded, commanding the Clerk of the District Court of Pasquotank County, on or before the next session of this court, to certify and send up into this court a full and complete transcript of the record in the said cause.

89. Forbes v. Peters Exr.

This cause coming on to be finally heard on the transcript of the record of the court below, and it being suggested, because it seems to the court here that there is no definitive judgment below. It is considered by the court that the appeal be dismissed. that the appellee recover of the appellant his costs in this cause in this court expended, that this decision be certified below for observance.

133. Lawton v. Republic

Came the party appellant as well as George W Terrill Attorney General, who informs the court that on examination of the transcript, he the said attorney General is satisfied that the prosecution against the appellee in the Court below was and is maintainable, wherefore with the Consent of the Court here, he the said Terrill will not prosecute the appellee. further, and he is therefore discharged. that this decision be certified below for observance.

The Court adjourned until tomorrow morning 10. o'Clock.

117

Friday January 28. 1842

The court met pursuant to adjourn=
=ment, present Chief Justice Semphill
and Justices Hutchinson Jones Slade and
Morris.

Justices Baylor and Mills not sitting.

32. Jones v. Roland.

This cause coming on to be heard on the
transcript of the Record in the District
Court of Fort Bend, and it being inspected
and the argument of Counsel heard, because
it seems to the Court here, that there is error
in the judgment below, it is considered by
the court here that the said judgment be
reversed, that the cause be remanded, and
that the parties be allowed to amend their
pleadings with a view only to have the
merits of the cause decided, that the
appellant recover of the appellee his costs
in this Court and that this decision be cer=
=tified below for observance.

Opinion delivered by Justice Hutchinson

118. Thompson Minton & Payne v. Harrison & Co.

This cause coming on to be heard on the tran=
=script of the Record below, and it being in=
=spected and the argument of Counsel heard
because it seems to the Court here that the
judgment of the Court below is erroneous,
It is therefore ordered adjudged and decreed
that the judgment of the Court below be rev=
=ersed, and this decision be certified below
for execution.

71. Cameron Christian & Pillsbury

Came the parties by their attorneys by mutual con=
=sent it is ordered adjudged and decreed by the
Court here, that the decree herein of the District
Court of Brazoria County be reversed, that this de=
=cision be certified below for observance.

4 8

103. Williamson & Bowerman v. Barlee

Appeal from Red River—

Mr Connel for the appellant moves the Court to order this cause to be transferred or adjourned for hearing at Nacogdoches on the third Monday in June next pursuant to the act in such case made and provided—

The Court adjourned until tomorrow morning 10 o'clock.

Saturday January 29th 1842.

The Court met pursuant to adjournment present Chief Justice Murphree, and associate Justices Baylor, Hutchinson, Ja & Jo. Jones, Morris and Mills

103. Williamson & Bowerman v. Barlee

Upon this cause the Constitutionality of the act to hold an adjourned session of the Supreme Court at Nacogdoches was argued by Williamson H. Fisk and Abner S. Lipscomb Esqrs in support of the act.

The Court adjourned until Monday morning 10 o'clock.

Monday January 31. 1842.

The Court met pursuant to adjournment present Chief Justice Hemphill, and associate Justices Hutchinson, Jack, Jones, Morris and Mills -

Judge Baylor not sitting.

162. Fowler Brooks & Co. V. Wm. J. Hill

This cause coming on to be heard on the Transcript of the Record of the Court below, and it being inspected, because it seems to the Court here that the Judgment of the District Court of Brazoria County was erroneous - It is therefore the opinion of the Court, and it is hereby ordered adjudged and decreed, that the judgment of the Court below be totally reversed, and this decision be certified below for observance.

147 Sam Houston Pres't V. Roberson

This cause having been argued the Court adjourned until tomorrow morning 10. o'Clock

Tuesday February 1. 1842.

The Court met pursuant to adjournment present Chief Justice Hemphill, and associate Justices Hutchinson Jack Jones and Morris. Justices Baylor and Mills not sitting.

147. Sam Houston Pres't V. Roberson

This cause having been argued, the Court adjourned until tomorrow morning 10. o'Clock.

54

Wednesday February 2. 1842.

The court met pursuant to adjournment present Chief Justice Memphill, and Associate Justices Hutchinson, Jackson and Mills.

Sur &c. Baylor vs Lillard.

106. Hamilton v. McKenzie

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected, because it seems to the court here that no appeal having been taken within the terms prescribed by law nor can it be taken into Consideration any of the grievances matters presented on the Record. It is therefore considered adjudged and decreed that the cause be stricken from the Docket.

Let this decision be certified below for observance.

Opinion delivered by Ch. J. Memphill

107. McKenzie v Hamilton

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected because it seems to the Court here that there was error in the judgment of the Court below. We are therefore of opinion, and it is hereby ordered adjudged and decreed that the judgment of the Court below be reversed, and the cause remanded for further trial, the appellee having the privilege of answering further to the allegations of fact contained in the bill, and that this decision be certified below for observance.

Opinion delivered by Justice Mills.

101. Fulton v. Chadwick.

This cause coming on to be heard on the transcript of the Record of the District Court, and it being inspected and the argu-

51.

Counsel for Counsel heard. This the appeal of the Accountant, and it is hereby ordered adjudged and decreed, that the judgment of the Court below be in all things affirmed, that the appellee recover of the appellant his costs in this cause in this Court expended, that this decision be certified below for execution.

Opinion delivered by Justice Baylor.

Several causes having been argued the Court adjourned until tomorrow morning 10 o'Clock.

Thursday February 3. 1842.

The Court met pursuant to adjournment, present Chief Justice Hemphill and associate Justices Baylor, Hutchinson, Jack & Mills.

Justice Morris not sitting.

34. Quigley v. Moore.

The counsel of the appellant suggests that since the last term, the appellant departed this life, and a scire facias is awarded to revive this cause in the name of the devisees & personal representative.

Several causes having been argued the Court adjourned until tomorrow morning 10. o'Clock.

Friday February 4. 1842.

The Court met pursuant to adjournment. Present Chief Justice Hemphill and Justices Baylor, Hutchinson, Jack & Mills.

156. Stockton v. Montgomery

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected and the argument of Counsel heard, because it seems to the Court here, that there is no error in the judgment of the Court below, it is therefore the opinion of the Court, and it is hereby ordered adjudged and decreed, that the judgment of the Court below be in all things affirmed, and the appellee recover of the appellant his costs in this cause in this Court expended, and this decision be certified below for observance.

The Court adjourned until Monday morning 10 O'Clock.

Monday February 7. 1842.

The Court met pursuant to adjournment, present Chief Justice Hemphill, and Associate Justices Baylor, Hutchinson, Jack, Morris and Mills.

176. Republic v. Young

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of Counsel heard, because it seems to the Court here that there is no error in the decision below, it is therefore ordered adjudged and decreed that the judgment of the Court below be in all things affirmed, and this decision be certified below for observance.

Opinion delivered by Justice Baylor.

53

Justice Hutchinson delivered the opinion of the Court in the cause of Stockton V. Montgomery, to which Justices Baylor, Jack, and Mills dissented.—

The Chief Justice and each of the associates intimated that they would deliver each a separate opinion at the adjourned term in June.

154. John Smith V. Republic

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected, and the argument of Counsel heard.

It is ordered adjudged and decreed that John Smith the appellant in this case be and remain in close custody in the jail of Liberty County until friday the first day of April Eighteen hundred and forty two, that on the said first day of April, he be taken from the Jail to some place of public execution in the town of Liberty, in the County of Liberty; and that then and there between the hours of 10. o'Clock A.M. and 2. o'clock P.M. he be hanged by the neck until he be dead, and that the Sheriff of Liberty County be charged with the execution of this order.

Opinion delivered by Justice Jack.

159. League V. Cunningham

In the agreement of Counsel it is ordered that this cause be dismissed at the adjourned term in June next, unless a sufficient and proper bond be then filed.

148. Scott & Solomon V. Maynard wife

On the motion of appellants Counsel a writ of Certiorari was awarded, Commanding the Clerk of the District Court of Matagorda, on or before the adjourned term of this court in June next, to certify and send into this court a full and true Complete transcript of the Record in the said Cause

129. Anton V. Jones

This Cause coming on to be heard on the transcripts of the Record of the Court below,

And it being inspected and the argument of Counsel heard, because it seems to the Court here that there was error in the decision below. It is therefore the opinion of the Court here, and it is hereby ordered adjudged and decreed, that the judgment below be reversed, and the cause remanded for new trial, that this decision be certified below for observance.

Opinion delivered by Justice Hutchinson.

The Court orders that the Clerk transcribe enlarge and perfect the minutes of this Term in a well bound Minute Book, also to Record the opinions of this Court in a well bound book to be kept by him for that purpose.

166. Tonkins v. Republic

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected and the argument of Counsel heard, because it seems to the Court here that the decision of the Court below is erroneous. It is therefore ordered adjudged and decreed, that the judgment of the Court below be totally reversed, that this decision be certified below for observance.

Opinion delivered by Justice Hutchinson.

117. Elizabeth E. Parrott v. C W Parrott.

In this cause the Court over-rules the motion of appellees Counsel for re-hearing.

The Court adjourned until 10 o'clock tomorrow morning 10. o'clock.

Tuesday February 8. 1842.

The Court met pursuant to adjournment. Present Chief Justice Hemphill & Justices Baylor Hutchinson Jack Morris and Mills.

77. Van Winkle &c. v. Priestley

On motion of the appellants Counsel a writ of Certiorari is awarded commanding the Clerk of the District Court of Harris, on or before the adjourned Term in June next, to certify and send into this Court a full and complete transcript of the Record in the said cause.

It having been represented to this Court that a Copy of Martins, and one Copy of the Louisiana Reports belongs to this tribunal, and that the same are now in the possession of Mr Gray of Houston, The Clerk is ordered to take proper measures to have the said books transferred to this place, and that the same be carefully preserved for the use of this Court.

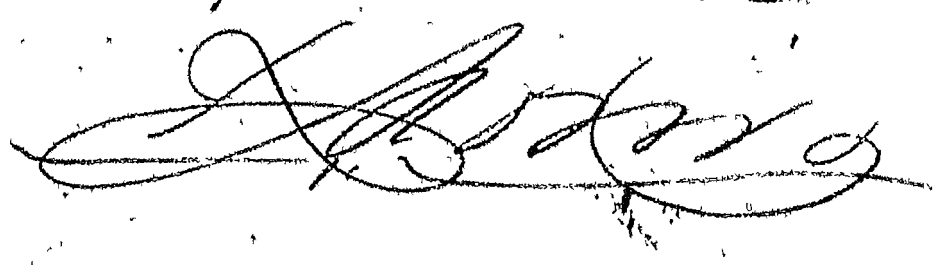
80. Crosby v Huston.

In this cause it was made to appear to the Court that the complainant Josiah H. Crosby had complied with the order made at the last Term of this Court, requiring him to file and spread hereon with the Clerk of the District Court of Harris County, a writ which was aforesaid by said Clerk, on motion it is ordered, that the decree of the said District Court of Harris and the record of the proceedings of the Chancellor in the original cause be certified to the Supreme Court of the Republic

County, to carry into effect this order, and that the Clerk of this Court-issue a Certiorari to the Clerk of the Court below to send up to this Court a Copy of the proceedings given by said County in said Case.

The Court adjourned until the first Monday of June next.

John Henshall Chf Just.
R. E. B. Baylor
P. C. Lucas



Adjourned Session
June Term
1842

Be it remembered that on the sixth day of June being the first monday thereof in the year of our Lord one thousand eight hundred and forty two, pursuant to Law there was begun an adjourned session of the Supreme Court.

Present the Hon. John Humphreys Chief Justice,
Thomas Green Clerk,
and
Charles F. King Sheriff of Davis county and Ex officio Sheriff of the Supreme court.

Here being no Quorum the Court adjourned until tomorrow morning 9 o'Clock.

Tuesday June 7th 1842.

The Court met pursuant to adjournment.
Present the Hon John Humphreys Ch. Just. and the Hon R.E.B. Baylor Judge of the 5th Judicial District, Here being no quorum the Court adjourned until tomorrow morning 9 o'Clock.

Wednesday June 8th 1842.

The Court met pursuant to adjournment.
Present as Justices aforesaid and Thomas Green Clerk
Here being no quorum the Court adjourned until tomorrow morning 9 o'Clock.

58.

Thursday June 9th 1842

The Court met pursuant to adjournment present Ch. Justice Stemphill, there being no quorum the Court adjourned until tomorrow morning 10. o'Clock.

Friday 10th June 1842.

The Court met pursuant to adjournment present Ch. Justice Stemphill, there being no quorum it was ordered that the Court adjourn until tomorrow morning at 8. o'Clock.

Saturday June 11th 1842.

The Court met pursuant to adjournment present Ch. Justice Stemphill. There being no quorum the Court was adjourned by the Chief Justice until its next Term.

John Stemphill
Chf Jus Sup. Ct.

June Term

1843.

Be it remembered that on the twelvth day of June in the year of our Lord One thousand eight hundred and forty three, it being the 2d Monday thereof, pursuant to law there was begun & Supreme court of the Republic of Texas, Present the Hon. John Hemphill Chief Justice, Thomas Green clerk, and Wm M. Dixon sheriff of Washington County and ex-officio sheriff of the Supreme court, there being no quorum present it was ordered that the court adjourn until tomorrow 11 o'Clock.

Tuesday June 13th 1843.

The Court met pursuant to adjournment, present, Ch. Justice Hemphill and associates Baylor, Jack, Jones, Morris and Ochiltree.

On motion, E. H. Tarrant, Ab. J. Jennings Benj. H. Martin Henry S. Potter and Peck White were admitted to practice in this court.

It was ordered that the causes be taken up Docketed in numerical order 1st 2d 3d 4th 5th 6th &c

Ordered that the court adjourn until tomorrow 9 o'Clock.

Saturday June 14th 1845.

The Court proceeded to the trial of Patrick Breen, Thomas Clancy, Patrick Clancy, Patrick Kennedy and Michael Breen, Barney, Patrick, Owen, Thomas and Patrick Breen.

The parties the Court ordered to be severed.

On Motion Mr Cambreleng — Bailey v. Jackson — Moore v. Adams — Brien v. Brown — Lewis alias Scottsman v. Nicholas — Boyle v. Hoyt — Moore v. Moore) — Mercein v. Mercein — Kenyon v. Moore) — Betts v. Reynolds — Ring Brown v. Clark — Russell v. Tanner — Carter v. Ring Brown & Carter — Edmonds v. Bay — Dyson v. Ogden — Ogden v. Ogden — Ogden v. Bradshaw — Brown v. Hedges — Smith v. Smith — Ryan v. Hathaway.

After which argued by D. Lord Esq. in behalf of Kennedy, Patrick Breen &c. etc. Ian Reynolds & the Court to adjourn and the Court to adjourn and continued all the cases, remain on the Docket until the next term of the Court, Petit Jury from the Recorder &c. Ordered by the Court.

13. Henry v. Tuomey, Appeal dismissed by Plaintiff's Attorney.

14. Hoff v. Hammond, Injunction. Motion for Injunction granted, Recognizance fixed at $1000 Defendant cannot be discharged until order complied with & costs taxed.

15. Hall v. Hall, Appeal dismissed.

16. Hall v. Hall, Appeal dismissed.

17. Hall v. Hall, Appeal dismissed.

The Court adjourned until 10 o'clock tomorrow.

Thursday June 15th 1843.

The Court not proceeding to adjournment
Present Sir Peter Maxfield, and Associates Burgess
Scott Jones Annis and Antrobus

The Minutes of Yesterday read and confirmed.
Eight Practitioners of Law were admitted Attorneys and
admitted to practice in this Court.

The following Causes ordered to be heard
at the Bar of the Court.

Chancery Causes. Demurrer & Pleas—
Chatterton & Secker— Pleas & Demurrer & Pleas—
Pilkington & Pilkington— Plea & Demurrer & Answer—
Millikin & Millikin— Bill taken pro confesso—
Allen— Close & Mundo— Bailey & Hopkins—
and Bill Answer & Cleared.

The following Rule was agreed to
by the Court.

Practice established that to secure the
Plaintiff his costs in case any Issue shall
Plaintiff the Defendant may pay into Court
Plaintiff the amount of Verdict & costs
Plaintiff shall be bound thereby & entered for
Trial."

18. Recognizance & Bail may be filed & Bail Piece
to the Court

19. Writ of Execution may be issued & Bail
Bail Piece filed & Bail entered to the Court.

20. Writ of Error, or Certiorari
Error stayed until Bail in Error
Plaintiff Costs in Error & Judgment

Friday 16th June

The Court not proceeding to business
adjourned

admitted to practice in this Court.

Th. Devinon Counsellor &c. b. Ingram argued and submitted to the Court.

Ordered that the Court adjourn until Monday morning 9 o'Clock.

Monday 19th June 1843.

The Court met pursuant to adjournment, present Ch. Justice Stemphill & assosciates Baylor Jack Morris and Achitree

131. Hollman & Peebles Argument commenced. In the case of Hollimans heirs v. Peebles it is agreed that the papers sent up by the Clerk in pursuance of the order of the District ~~Court~~ Judge shall be received as the papers which were read in the trial below.

(Signed) Dillenio L Jack

J. D. Jones

On motion, the Attorney General G.W. Terrell, Wm St. Jack, J.D. Jones, S.F. Jennings and B.C. Franklin Esqrs were appointed a committee to draft rules for the government of the District Courts.

Ordered that the court adjourn until tomorrow morning 9 o'Clock.

Tuesday 20th June 1843.

The Court met pursuant to adjournment present Ch. Justice Stemphill and Associates Baylor Jack Morris and Achitree.

181. Scott & Solomon v. Maynard & wife. Opinion of the Court delivered by Ch. Justice Stemphill.

This cause coming on to be heard [illegible] upon the record of the Court [illegible] and the argument

of Counsel heard, because it seems to the court he that the judgment of the court below is erroneous, it is therefore the opinion of the court here and it is hereby ordered adjudged and decreed that the judgment of the court below be reversed and that the appellee pay the cost of this cause in this court expended and this decision be certified below for execution.

13. Allen and wife v. Sweeney. 3 Brazos

Opinion of the court delivered by Judge Morris, Judge Jack giving no opinion having been Counsel in the cause below.

This cause coming on to be heard on the transcript of the record of the court below, and it being inspected and the argument of Counsel heard because it seems to the court here that the judgment of the court below is erroneous, It is therefore the opinion of the court here, and it is hereby ordered adjudged and decreed, that the judgment below be reversed and the cause remanded for a new trial, and the appellee pay the cost of this cause in this court expended, and that this decision be certified below for observance.

122. Huff v. McCreary clerk. 3 Austin

Opinion of the court delivered by Judge Roberts. Judge Jones giving no opinion having presided in the cause below.

This cause coming on to be heard on the transcript of the Record of the court below and it being inspected and the argument of Counsel heard, because it seems to the court here that the judgment below was erroneous, It is adjudged and decreed, that the judgment be reversed, and the cause remanded for a new trial, and the appellee pay the costs of this cause in this court expended, and that this decision be certified below for observance.

The following motion of [illegible] was ordered to be entered.

"The Court is advised to grant certificate to [illegible]

"corresponding to the several Districts and also
"to instruct the Clerk to file the papers of
"each District in separate and distinct files."

131. Hallinan v. Peebles 3 Dall Rep

Argument concluded and the cause submitted to the court.

125. Cummings v. Jones 3 Austin

Argued and submitted to the court.

Ordered that the court adjourn until tomorrow morning 9. o'Clock.

Wednesday 21st June 1843.

The Court met pursuant to adjournment
present, Ch. Justice Hemphill and associates
Baylor J. & R. Morris and Architree.

163. Walker v. McNeill & Calder 3 Dallas

Argued and submitted to the Court.

Ordered that the Court adjourn until
tomorrow morning 9. o'Clock.

Thursday 22d June 1843.

The Court met pursuant to adjournment
present Ch. Justice Hemphill, and associates
Baylor J. & R. Jones Morris and Architree.

193. Huff v. Williams 3 Stafford

Opinion of the Court delivered by Ch. Justice
Hemphill.

This cause coming on to be heard on
the transcript of the Record of the Court
below, and it being inspected by the Court and
the argument of Counsel heard, It is ordered
adjudged and decreed that all proceedings
subsequent to the order of the Court Commission-
-er [illegible] injunction to issue be
[illegible] and that the cause be

remanded to the District court for fur. hr action.

The following motion was presented to the court by D. Gillespie Esq.

221 Jane Lockhart alias Jane Sawyer appt.
v. John Lockhart, aptee.

The appellee in this case moves to dismiss said cause because it does not appear from the Record that there was any appeal prayed or granted, this case having been decided previous to the act authorizing appeals in Vacation

Lipscomb Gillespie & White
attys for apptee.

Edwards v. Park & Moore v. Moore, were cont'd until the next term of the court.

216. Republic v. Bordges 3 Matagorda.

Cond the party appelled as well as the Attorney General who informs the court that on an inspection of the Record he is satisfied that the prosecution against the appellee in the court below was, and is unmaintainable, wherefore with the consent of the court here he dismisses his appeal prosecute the appeal further, and the cause is therefore dismissed, and the judgment of the court below affirmed. Let this decision be certified below for observance.

185. Williams &c v. Borden Collector 3 Galveston

Argued and submitted to the court.

190. Monger v. Allen & Allen 3 Austin

Argued and submitted to the court.

Ordered that the court adjourn until tomorrow morning 9 o'Clock.

Friday June 23d 1843.

The court met pursuant to adjournment present the Justices Hemphill, and advocates. Baylor Jack Munir and Reynolds.

1119. Addicks, etc v. Sexton 3 Brazos

Briefs of appellee Reynolds. 20

Scire facias ordered to issue.

169. Longe & Allerce v. Walker Ch. J. 3 Colorado
Submitted to the court.

229. Maiden v. Paris Brown & Calder 3 Brazoria
Argued & submitted to the court.

230. Edwards v. Republic 3 Brazoria.
Argued & submitted to the court.

235. Scott use &c. v. Dewees 3 Colorado.
Submitted to the court.

242 McElhaney v. Secrest 3 Fort Bend
Submitted to the court.

112. Seguin v. Pacheal 3 Bexar
Submitted to the court.

Ordered that the court adjourn until tomorrow morning 9 o'Clock.

Monday June 26th 1843.

The Court met pursuant to adjournment, present Ch. Justice Hemphill, and associates Baylor Jack Morris and Whitted.

128. Somervell v. Cavanah 3 Matagorda.

Opinion of the court delivered by Judge Whitted.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the court here that the judgment below was erroneous, It is ordered adjudged and decreed that the judgment of the court below be reversed the information dissolved and proceeded awarded to the District court of Matagorda County, that the appellee pay the cost of this cause in this court expended. Let this decision be certified below for observance.

173. Hall v. Edgerly & Co. 3 Austin
Opinion of the court delivered by Judge Baylor.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the court here that there was manifest error in the court below It is ordered adjudged and decreed that the verdict be set aside, the judgment reversed and the cause remanded for a new trial, and that appellee pay the cost of this cause in this court expended, and that this decision be certified below for observance.

76. Metcalf v. Bernardo 3 Galveston

Opinion of the court delivered by Judge Baylor.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the court here that there was no error in the judgment below, It is ordered adjudged and decreed that the judgment of the court below be affirmed, and the appellant pay the costs of this cause in this court expended, and that this decision be certified below for execution.

167. Austin v. Woods 3 Harris

Death of Woods suggested and suit revived by motion in the name of the legal representatives of Isaac Woods.

92. Manifee v. Millican 3 Jackson

Alias Certiorari awarded. Cont'd until the next term of the Court.

42 Seguin v. City of San Antonio and 93 Hatch v. Gray, Cont'd until the next term of the court.

84 Bradley v. McGrath 3 Victoria

Submitted to the court.

86. Moody v. Roman 3 Victoria

Submitted to the court.

87. Taylor v. Duncan 3 Gonzales

Argued and submitted to the court.

91. Davis v. Hatch 3 Jackson

Submitted to the court.

96. Hall & Neff v. Heard 3 Gonzales

Submitted to the court.

120. Bryan & Harris v. Patton 3 Victoria

Submitted to the court.

132. Ordered that [illegible] Coroner.

Upon the petition of Richard Ellis of Kingston praying that he may be appointed Coroner in the room of Thomas Markham deceased, and upon reading the certificate of the Justices of the Peace for the District of Kingston recommending the said Richard Ellis as a fit person to be appointed Coroner, and the said Richard Ellis having taken the oaths required by law, and entered into the recognizance with sureties required by the Statute in that behalf.

It is Ordered that the said Richard Ellis be and he is hereby appointed Coroner accordingly.

133. Ordered that [illegible] Coroner.

Upon the petition of Richard Cartwright praying that he may be appointed Coroner in the room of Robert Kirby deceased, and upon reading the certificate of the Justices of the Peace for the District of Newcastle recommending the said Richard Cartwright as a fit person to be appointed Coroner, and the said Richard Cartwright having taken the oaths required by law and entered into the recognizance with sureties required by the Statute in that behalf.

It is Ordered that the said Richard Cartwright be and he is hereby appointed Coroner accordingly.

THURSDAY JUNE 27th 1843.

The Court [illegible] to adjourn [illegible] Monday the twenty sixth instant at Eleven o'clock A.M. pursuant to the Statute in that case made and provided.

[illegible] Court [illegible] Monday the twenty sixth instant at Eleven o'clock A.M. pursuant to the Statute in that case made and provided.

[illegible] Court [illegible] Monday the twenty sixth instant at Eleven o'clock A.M. pursuant to the Statute in that case made and provided.

together with Ten per centum damages to be computed on the principle sum adjudged and added to the amount recovered, with the costs of the appellee in error & the appellant his costs in this behalf in this court expended & that a mandate be certified thereon for execution.

No. 84. Bell & wife v. Dillman 3 Bentons
Submitted to the court.

85. Bell v. Republic 3 Victoria
This cause coming on to be heard on the transcript of the record of the court below, and the appellant having appeared by himself or attorney to prosecute the suit, It is ordered adjudged and decreed that the cause be dismissed and the judgment of the court below affirmed, and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution.

175. Keller v. Webb and Co Santa Fe Territory
Continued until the next Term of the Court

218. Shelby v. Johnson 3 Gonzales
argued and submitted to the court.

234. Dewey v. Hodgeons 3 Colorado
Dimination of the Record suggested
and writ of certiorari awarded requiring
the clerk of the District Court of Colorado
County to send up a more complete Record
Cont'd until the next Term of the Court.

244 Carlisle & Quinn v. De Lagarza 3 Victoria
Dimination of the Record suggested and
writ of certiorari awarded requiring the clerk
of the District Court of Victoria County to
send up to this Court a full and complete
Record of the proceedings below, Cont'd until
the next Term of the Court.

Ordered that the court adjourn until
tomorrow morning 9 O'Clock.

Wednesday June 28th 1843.

The Court met pursuant to adjournment present Ch. Justice Murphree and associates Baylor Jackson Morris and Archibald.

153. Duffield v. Houston atty. 3 Augusta's Motion for writ of certiorari awarded requiring the Clerk of the District Court of Augusta to send up immediately official and complete Record.

J. Heaney v. Mathews 3 Bartop Continued to the Court.

41. Richards v. Stanley 3 Chicago Motion for Certiorari granted requiring the Clerk of the District Court of Chicago County to send up to this Court at or before the next Term thereof a full and complete Record.

113. Patterson v. Republic 3 Rusk.

Came the party appellant by attorney and the attorney General and also informs the Court that the transcript in this cause was not filed against the appellant in time to be docketed, whereupon with the consent of Court he says he will not prosecute the appeal further, whereupon and in the Court declares. It is therefore ordered adjudged and decreed that the judgment of the Court below be reversed, and the appellant have his claim certified as the law in such case directs, and that this Court certify the same to the District Court of Rusk County for execution

57. Morton v. Brown 3 Bartop.

Agreement Compromised.

Ordered that the Court adjourn until 9 o'clock A.M. tomorrow.

Thursday June 29th 18[illegible]

The Court met pursuant to adjournment present Ch. Justice Murphree and associates Baylor [illegible]

47. Salt Industry v. Hardeman

Suggested as to cause of delay and
submitted to the Court.

57 Hanlon v. Brown v. Barton

Argument concluded and cause
submitted to the Court.

96 Kelso Shff. v. Hardeman v. Gonzales

Opinion of the Court delivered by Judge
Baylor.

This cause coming on to be heard on
the transcript of the Record of the Court
below, and it being inspected because it seems
to the Court here that there was manifest
error in the judgment of the Court below, It
is ordered adjudged and decreed that the judgment
of the Court below be reversed and set aside
and the appellee pay the cost of this cause in
this Court expended, & let this decision be cer-
-tified below for observance.

114. Clegg v. York v. Milano

Argued and submitted to the Court.

176. Thupe v. Board of Land Comrs. Jackson

Opinion of the Court delivered by Judge
Whitten.

This cause coming on to be heard
on the transcript of the Record of the Court below
and it being inspected and the argument
of Counsel heard, It is ordered adjudged and
decreed that Plaintiff Thupe recover of the
Republic of Texas an augmentation of two
thirds of a league and one labor of land
and that the judgment of this Court be certified
to the District Court of Jackson County and
that the Clerk of said District Court be
ordered and directed to issue to the said
Thupe a Certificate in due form of law for
said augmentation of land. Let this decision be
certified below for observance.

230 Edwards v. Republic v. Brazoria

Opinion of the Court delivered by Judge
Whitten.

This cause coming on to be heard
on the transcript of the Record of the Court
below and it being inspected and the argument

of Coverd. head, because it does ... It cannot here that the writ of error by which the cause has been brought up to this Court, was improvidently granted. It is ordered adjudged and decreed that the Decree be reversed, and that the Respondent recover of the Plff in Error Edwards the costs of this cause in this Court expended, & that this decision be certified below for execution.

120. Bryan & Kenney & Patterson } Appeal
from Chancery.

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected & whereas it does not appear that any error was committed by the Court below in the decree aforesaid, It is therefore considered by the Court here that the said decree be affirmed with costs & that the appellees recover against the appellants their costs in this behalf in this Court expended & that this affirmance be certified below for execution.

Ordered that the Court adjourn until tomorrow morning 9 O'Clock.

Friday June 30th 1843.

The Court met pursuant to adjournment. Present Justices Catron, Ormsby, Grundy, Baxter, Bryan, Peck, Ellmore and Reid.

No. 119. Edwards } Appeal
vs } from Chancery.
Bryan & Kenney & Patterson }

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected & whereas it does not appear that any error was committed by the Court below in the decree aforesaid & whereas Leonard Bryan & Kenney & Patterson appellees in this behalf in this Court expended & it is considered & adjudged & decreed that the

be dismissed from this court, and that the appellant pay the cost of this cause in this court expended. But this decision be certified below for observance.

The following cases were continued under the rule of the court. 116 Robertson v. McMillen — 135 Republic v. Hackett 136 Republic v. Fitch & wife — 143 Smith v. Pownall 155 Pearce and Towns v. Randon — 183 Union Bank of Mississippi v. Brown — 184 Wharton v. Lee — 191 Harlan v. Baker and Sydnor v. Chambers.

Ordered that the court adjourn until Monday morning 9. o'clo.

Monday July 3d 1843.

The court met pursuant to adjournments, present, Ch. Justice Stanfield and associates Taylor Jacob Morris and Whiting.

J. Kenny v. Marlow's Exrs. This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected because it seems to the court here that no notice of appeal was given in the court below, nor any appeal bond filed, There is therefore no foundation for the exercise of the jurisdiction of this tribunal, and the cause is accordingly ordered to be removed from the Docket, and the appellant pay the cost of this cause in this court expended.

J. Godwin v. Republic's Exrs. Opinion of the Court delivered by Judge Whiting.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected because it seems to the court here that there was error in the judgment of the court below It is ordered adjudged and decreed that the

judgment below be in all things affirmed, and that the appellant pay the cost of this cause in this court expended. Let this decision be certified below for observance.

84. Bradley & McCrabb 3 Victoria

Opinion of the court delivered by Ch. Justice Hempstead.

This cause coming on to be heard on the transcript of the Record of the court below and it being inspected and the argument of counsel heard, because it seems to the court here that there was no error in the judgment of the court below. It is ordered adjudged and decreed that the judgment below be in all things affirmed, and that the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution.

229. Maiden v. Farris Brown & Calder 3 Brazoria

Opinion of the court delivered by Judge Morris.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the court here that there was error in the court below. It is ordered adjudged and decreed that the judgment of the court below be reversed, and the cause remanded for a new trial and the appellees pay the cost of this cause in this court expended. Let this decision be certified below for observance.

242. McElhaney v. Secrest 3 Fort Bend

Opinion of the court delivered by Judge Morris.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the court here that the court below erred, It is ordered adjudged and decreed that the judgment of the court below be reversed and the cause remanded for a new trial, and that the appellees pay the cost of this cause in this court expended, but this decision be certified below for observance.

138. McElligine v. Delahaye & Barbo
Opinion of the court delivered by Judge Baylor, the Ch. Justice giving no opinion having been of counsel below.

This cause coming on to be heard on the transcript of the Record of the court below, and it seeing inspected and the argument of counsel heard, because it seems to the Court here that the judgment of the court below was erroneous, It is ordered adjudged and decreed that the same be reversed and the cause remanded to the court below for a new trial, and the appellee pay the cost of this cause in this court expended. Let this decision be certified below for execution.

139. Stoldermann v. Knight & White & Barbo
Argued and submitted to the court

142. Whiting v. Pettus & Harris
Submitted to the court.

160. Whiting v. Briscoe & Harris & Harris
Motion to dismiss.

The following causes were continued until the next term of the Court.

Adams Van Winkle dec v. Priestly — Conlee Assf. v. Winn — Cook v. Bailey — Cook v. Crawford — Cook v. Stall — Gilmore & Redding v. Corporation of Bastrop — Brown v. Herbert — Green admr v. Franklin guardian — Bryan v. Kellow et al — Bryan v. Kellow et al — Allen v. Briscoe — Dimitt et al v. Power — & Soler & Crosby v. Agnes.

Ordered that the court adjourn until tomorrow morning 9. o'Clock.

Tuesday 4th of July 1843

The court met pursuant to adjournment present Ch. Justice Hemphill and associates Baylor Jack Morris and Achilles.

133. Heffler v. McMillan & Robertson
Submitted to the court.

11. Roberts & Allen v. Davis } Error to Orleans.

This cause coming on to be heard on the transcript of the Record of the court below and the parties entitled to appearing by themselves or attorneys to prosecute the writ. It is ordered adjudged and decreed that the cause be dismissed, and the appellant pay the costs of this cause in this court expended, and this decision be certified below for execution.

17. Benton v. Williams } Harris

Motion to dismiss submitted to the court.

82. Dixon v. Anderson Collector } St. Augustine

Death of appellant suggested and scire facias ordered to issue to his legal representatives when known. Cont.d until the next term of the court.

83. Dixon v. Anderson Collector } St. Augustine.

Death of appellant suggested and scire facias ordered to issue to his legal representatives when known Cont.d until the next term of the court.

95. Postlethwait et al v. Patton } Harris

Submitted to the court.

141. Whiting v. St. John } Harris

Suggested as a cause of delay, and submitted on a motion to dismiss for want of sufficient bond.

143. Whiting v. Allaston } Harris

Submitted to the court.

150. Young v. Patterson } St Augustine

Argued and submitted to the court.

157. Dixon v. Anderson Collector } St. Augustine

Death of appellant suggested and scire facias ordered to issue to his legal representatives when known. Cont.d until the next term of the court.

158. Dixon v. Anderson Collector } St Augustine

Death of appellant suggested and scire facias ordered to issue to his legal representatives when known, Cont.d until the next term of the court.

186. Moreschi v. Moreno } Harris

Submitted to the court.

The following causes were continued until the next Term of the Court

Board of Land Comrs v. Raguet & Logan —

Lansing v. Steiers — Dailey v. Bostwick —

Bostwick v. Dailey — Fairbanks v. Lindsey —

Board of Legislative Comrs. v. Reily exr. of Nelson Alexander
Ogden v. Hardy — Ellis v. Cheney — Townsend v.
Hayward v. Whiting — Neal of al v. Taylor — Bayne
v. Brooks — Hunter v. Kennedy — Barnes v.
Harris — Briscoe v. Bronaugh — Thomas v.
McLeo — Morris v. Wakeman — Landon v.
Moore — Peterkin v. Republic — Brig
Veranda v. Clark — Collier v. Kay — and
Ruckley admr v. Thompson Bank. Jacqo.
Ordered that the Court adjourn until
tomorrow morning 9 o'Clock.

Wednesday July 5th 1843.

The Court met pursuant to adjournment, present Ch. Justice Mansfield, and associate Justices Hayter, Jacob, Morris and Catlett.

143. Whiting & Marston vs Harris

Opinion of the Court delivered by Judge Catlett.

This cause coming on to be heard on the transcript of the Record of the Court below, and it being suggested because it seemed to the Court that there was no error therein, but that the appeal to this Court was taken for delay, It is therefore considered by the Court here, that the judgment be affirmed in all things affirmed together with ten per centum damages to be computed on the principle sum adjudged and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this Court expended, and that execution be awarded thereon.

186. Lloyd Hoff. v. Barnes Harris

Opinion of the Court delivered by Judge Jacob.

This cause coming on to be heard on the transcript of the Record of the Court below and it being suggested, because it appears to the Court here

court below, it is ordered ... and decreed that the judgment of the court below be reversed and the cause remanded for a new trial and the appellee pay the cost of this cause in this court expended. But this decision be certified below for observance.

91 Davis v. Yates &c. Yates.

Opinion of the court delivered by Judge Jacobs.

This cause coming on to be heard on the transcript of the Record of the court below and it being inspected, because it seems to the court here that there was manifest error in the court below, It is ordered adjudged and decreed that the judgment of the court below be reversed and the cause remanded for a new trial and the appellee pay the cost of this cause in this court expended, but this decision be certified below for observance.

93 Stoddard v. Patton & Harris.

Opinion of the court delivered by Judge Baylor.

This cause coming on to be heard on the transcript of the Record of the court below and it being inspected, because it seems to the court here that there was error in the court below, It is ordered adjudged and decreed that the judgment of the court below be reversed and the cause remanded for a new trial and the appellee pay the cost of this cause in this court expended, but this decision be certified below for observance.

93 Board of Land Comm'rs. Walling ... 3 Bierg below ... Agreed and submitted to the court.

138 Lewis v. Lodge ... 3 Ben Negative.

Agreed and submitted to the court.

93 Bailey v. Chevallé

Upon which the motion of the counsel ordered that the court adjourn until ... tomorrow morning 9 o'clock.

Thursday 6th July 1843.

The court met pursuant to adjournment, present Ch. Justice Stanfield and associate Justices Baylor, Jack, Morris and Ochiltree.

20. Garrett v. Rockwell & San Augustine

Opinion of the court delivered by Ch. Justice Stanfield.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of counsel heard, because it seems to the court here that there was no error in the judgment below, It is ordered adjudged and decreed that the judgment of the court below be affirmed and the cause dismissed and the appellant pay the cost of this cause in this court expended, and this decision be certified below for observance.

33. Keppler v. McMillan & Robertson

Opinion of the court delivered by Judge Ochiltree.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected because it seems to the court here that there was no definitive judgment rendered in the court below, It is ordered adjudged and decreed that the appeal be dismissed, and that the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution.

34. Grigsby v. Moore & Jefferson

This cause coming on to be heard on the transcript of the Record of the court below, and the appellant and neither appearing by himself or attorney to prosecute the appeal, It is ordered adjudged and decreed that the cause be dismissed and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution.

17. Benton v. Williams & Harris

Opinion of the court delivered by Judge Jack, Ch. Justice Stanfield giving no opinion having been of counsel below.

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected because it seems to the court here that there was no error in the judgment of the court below. It is ordered adjudged and decreed that the same be dismissed, and the judgment of the court below affirmed, and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution.

Taylor v. Duncan & Gonzales

Opinion of the court delivered by Judge Morris.

This cause coming on to be heard on a motion to quash the writ of error and to dismiss the cause, because it seems to the court here that the writ of error in this cause was improperly granted, It is ordered adjudged and decreed that the writ be quashed and the cause dismissed, and the Defendant in error pay the cost of this cause in this court expended. Let this decision be certified below for execution.

Hill Gregg v. York & Milam

Opinion of the court delivered by Judge Architree.

This cause coming on to be heard on the transcripts of the Record of the court below, and it being inspected because it seems to the court here that there was error in the judgment of the court below, It is ordered adjudged and decreed that the judgment below be annulled and reversed, and the appellee pay the cost of this cause in this court expended. Let this decision be certified below for execution.

Hill Whiting v. Jesse & Harris

This cause coming on to be heard upon the transcript of the Record, and it appearing to the court here that there was error in the court below in rendering judgment for Seven Dollars and fifty cents each of plaintiff, It is considered by the court here that the judgment of the court below be reversed, and the appellee have and recover of the appellee his cost in the court expended, And the attorney for appellee having entered a remittitur for the sum given

dollars and fifty cents, this Court proceed to render such judgment as the Court below should have rendered. It is therefore considered by this Court that Lewis St John appellee have and recover of Samuel Fuller appellant the sum of twenty seven hundred and sixty seven Dollars principal, One hundred and fifty seven Dollars and nineteen cents interest together with all cost in the Court below expended.

151. Keeler v. Keeler & Harris

This cause coming on to be heard on the transcript of the Record of the court below and the Counsel for the appellant refusing to prosecute the appeal, stating to the court that the controversy had been settled between the parties, It is ordered adjudged and decreed that the appeal be dismissed. Let this decision be certified below for observance.

164. Ellis v Cherry & Liberty

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected because it seems to the court here that there was no error in the judgment below, It is ordered adjudged and decreed that the same be in all things affirmed and the appellant pay to the appellee his cost in this cause in this court expended, Let this decision be certified below for observance.

174. Durst v. Lewis & McCoy & others

Argued and submitted to the court.

198. Republic v. McDonald & Red River

Come the party appellee by his attorney as well as the attorney General who informs the Court that on an inspection of the transcript he is satisfied that the prosecution against the appellee cannot be sustained Wherefore with the consent of the court here he says he will not prosecute the appeal further, It is therefore ordered adjudged and decreed that the cause be dismissed and the judgment of the court below affirmed, but this decision be certified below for observance.

207. Hamilton v. [illegible] } Red River
Motion to dismiss argued.

204. Pool et al. v. Simonds et al. } Red River
Submitted to the court.

208. Simms v. [illegible] } Lamar
Submitted to the court.

209. Fulton v. Craddock } Lamar
Submitted to the court.

80. Crosby v. Stanton } Harris
Motion to dismiss for want of a copy of a bond, argued.

The following causes were continued until the next Term of the Court.

78. Brice v. Crichet — 79 Springer v. Blanchet
68 Stephenson v. Hardein — 103 Williamson & Bowman v. Byrtee — 119 Danks v. Republic — 161 Smith & Jones v. Leyland & Levenhagen — 168 Cordova & Co. v. Priestly — 179 Gibbs & Corley v. Robert — 206 Langford v. Republic — 207. McFarland v. Republic — 210 Williams admr v. Wright — 211 Davis v. Craddock — 221 Langendelia v. Lockhart v. Lockhart, and 245 Republic v. Swan.

Ordered that the Court adjourn until tomorrow morning 9. o'Clock.

Friday 7th July 1843.

The court met pursuant to adjournment, present Ch. Justice Hemphill and associates Baylor Jack Morris and Whitfield.

170. Dixon v. Clark } Bowie
This cause coming on to be heard on the transcript of the Record of the court below and the appellant neither appearing by himself or attorney to prosecute the appeal It is ordered adjudged and decreed that the cause be dismissed and the appellant pay the cost of this cause in this court expended, and this decision be certified below for observance.

174. Hawkins Peters & Levy v. Collinsworth } Bowie
This cause coming on to be heard and

[illegible] Examination of the Record of the Court
below, and the Statement & Argument of Counsel
by Counsel on either side heard & considered
it is ordered adjudged and decreed that the
Cause be dismissed, and the Injunction
heretofore granted be dissolved with Costs
and that the Complainant pay to the Defendant
his Costs by him in this behalf expended.

Wm. McElmell & Edwd Harris } Bonds
Assigned & returned.

Wm. Hamilton & Peter Hoffman } Bonds
Signed and delivered to the Court.

Jas. Republic & Thomas Red River
Assigned & returned to the Court.

Wm. Price & Jas. Red River
Signed and delivered to the Court.

Wm. Hamilton & Wm. Craig } Bail Piece
Filed & discharged.

The following Causes were called & dismissed
under the 8th Rule of the Court

81. Cook & Hunter, and Peter Hoffman Exrs
and vs Wm Elmer & Republic.

Ordered that the Court adjourned
Monday Morning 9 o'Clock. —

Monday 10th July 1843.

[illegible]

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected, because it seems to the Court here that there was no error in the Court below, It is ordered adjudged and decreed that the judgment aforesaid be affirmed, together with ten per centum damages to be computed on the principle sum adjudged and added to the amount recovered, and that the appellee recover of the appellant the costs of this cause in this Court expended. Let this decision be certified below for execution

172 McKinney v. Peters & Lewis 3 Davis

Opinion of the Court delivered by Judge Achilles — Judge Jack dissenting.

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of Counsel heard because it seems to the Court here that there was error in the judgment of the Court below, It is ordered adjudged and decreed that the judgment of the District Court be annulled and reversed, and this Court proceeding to give such judgment as the District Court ought to have given, It is ordered & decreed that the appellant McKinney recover of the appellees Peters & Lewis the sum of two hundred and ninety six 96/100 Dollars principal, and seventy one Dollars interest upon the same, amounting to the sum of three hundred and sixty seven Dollars 96 Cents together with ten per centum damages to be computed on the principle sum adjudged and added to the amount recovered, and the appellant recover of the appellees the cost of this cause in this Court expended. Let this decision be certified below for execution.

183. Union Bench of Musquiskis.

R. B. Washington

The appellant having shown by his attorney in this court suggested errors in the cause in the Court below by said District Court having sustained the demurrer of the appellee to appellants petition in rendering judgment thereon in favor of appellee, and the said appellee by his attorney now comes and confesses the errors alleged by said appellant in said Record and says he has nothing further to allege why said judgment of the District Court should not be reversed & and it is agreed that this cause shall be remanded to the District court of Washington County that the Defendant have leave to plead over, and that the case be tried de novo.

It is therefore in accordance with the agreement of the attorneys ordered adjudged and decreed that the judgment below be reversed and the cause remanded for a new trial, and the appellee pay the cost of this cause in this court expended, & that this decision be certified below for observance.—

199. Price v. Sims & Red River

Opinion of the court delivered by Judge Rochester.

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of counsel heard, he finds it due to the court here that there was error in the court below, It is ordered adjudged and decreed that the judgment of the court below be reversed and the cause remanded for a new trial, that the appellee pay the cost of this cause in this court expended, but this decision be certified below for observance.

204. Hamilton v. Blackmon & Red Submitted to the Court by agreement of Counsel —

205. Mardenfeld v. Bass & Red River Submitted to the Court by agreement of Counsel.

239. Bezaleel Stinson v. Lf & B. Ozark [illegible] Opinion of the Court [illegible]

1881

Ch. Justice Merrifield.

This cause coming on to be heard on the transcript of the Record of the Court below, and it being suggested because it seems to the Court here that there was no error in the Court below, It is ordered adjudged and decreed that the judgment of the Court below be in all things affirmed and the appellee recover of the appellant the cost of this cause in this Court expended. Let this decision be certified below for observance.

174. Dunk V. Lewis } Nacogdoches
Opinion of the Court delivered by
Ch. Justice Merrifield.

This cause coming on to be heard on the transcript of the Record of the Court below, and it being suggested and the argument of Counsel heard It is ordered adjudged and decreed that the writ of error be granted, and the cause dismissed, and the appellant pay the cost of this cause in this Court expended. Let this decision be certified below for observance.

86. Roman V. Mordy } Victoria
Opinion of the Court delivered by
Ch. Justice Merrifield.

This cause coming on to be heard on the transcript of the Record of the Court below, and it being suggested that there was no error in the judgment of the Court below, It is ordered adjudged and decreed that the judgment of the Court below be in all things affirmed, and the appellant pay the cost of this cause in this Court expended. Let this decision be certified below for observance.

Ordered that the Court adjourn sine die tomorrow morning 9 o'clock A.M.

Sadler
212 U. M. Appeal from Lamar
Johnson

This Cause Coming on to be heard on the transcript of the Record of the Court below. And it being inspected, it appears to the Court here, that this Cause and the matters and things therein Contained, were heretofore adjudicated by this Court. It is therefore ordered adjudged and decreed that the writ of error be quashed and the Cause dismissed, and the plff. in error pay the Cost of this Cause in this Court expended. And this decision be certified below for observance.

Mandate issued July 31, 1843.

Tuesday 11th July 1843.

The court met pursuant to adjournment present Ch. Justice Stemphill, and associates Baylor Jack and Archibald

The court made the following order.

It is ordered that at the next session of this court the cases shall be taken up by Districts in the following order, viz. the seventh, fifth, fourth, third, second, sixth and first, and that the clerk make publication of this order in one of the newspapers of this Republic two months previous to the commencement of the next session of this court.

It is also ordered that the Causes be Docketed by Districts.

209. Fulton v. Crabtree & Leman

This cause coming on to be heard on the transcript of the Record of the proceedings, and it being inspected, it appears to the court here that this cause and the matters and things therein contained were fully and adjudicated by this court. It is therefore ordered adjudged and decreed that the writ of error be quashed and the cause dismissed, and that the costs of this cause in this court expended be taxed.

The following Causes were held under advisement until the next term of the court

138. Lovings v. Loyd adm. — 205 Wardlaw v. Boon — 208 Weatherford v. Timmins — 204 Hill v. Black adm. — 137 Holderman v. Knight & wife — Whiting v. Patton — 170 Anderson v. Allen & Allen — 213. Manderfield v. Meek — 182. Hodges

Sch Collector v. Ward & Ingram — 183 Williams
Leo v. Borden Collector — 179 Hamilton v.
Ballo & Fork — 218 Shelby v. Johnson —
212 Parchal v. Seguin — 197 Republic v.
Skidmore — 116 Robertson v. McMillan.

Ordered that the clerk of this Court furnish each of the Judges with a copy of the rules adopted by this court for the government of the District Courts of this Republic, under the Certificate of said Clerk certifying them to be true and genuine copies.

The Court made the following Order,

Ordered "That the Clerk of this court be directed to inform the Auditor and Comptroller that the accounts which are approved by the whole court are to be paid out of the appropriation for 1842. Those approved by the Chief Justice alone, to be paid out of the appropriations for 1843."

Ordered that the court adjourn until its next annual Term.

John Hemphill Chief-Jus.

N. H. Scurry
R. E. Lacy.
Lipscomb
R. E. B. Baylor

June Term.—

1844.—

Be it remembered that on the tenth day of June in the year of our Lord one thousand eight hundred and forty four, it being the second monday thereof pursuant to law, there was begun in the town of Washington a Supreme court of the Republic of Texas, present the Hon. John Hemphill Chief Justice, Wm B. Ochiltree, R. E. B Baylor and Wm E. Jones associate Judges,

Thomas Green clerk and Van R. Irion Sheriff of Washington County and Ex officio Sheriff of the Supreme court.

There being no quorum present, It was ordered that the court adjourn until tomorrow morning 10. O'Clock.—

Tuesday 11th June 1844.—

The Court met pursuant to adjournment, present Ch. Justice Hemphill and associates Baylor, Ochiltree and Jones, there being no quorum it was ordered that the court adjourn until 10. O'Clock Tomorrow morning.—

Wednesday 12th June 1844.—

The court met pursuant to adjournment, present Ch. Justice Hemphill and associates Ochiltree, Baylor, Hemphill and Jones

88. The Telegraph v. Blanchard } Appeal
Argued & Submitted to the Court.

Geo. Hamilton v. M Kinzie & Red River

Argument commenced on the motion to dismiss.

The following causes were continued until the next Term of the Court by the consent of attorneys.—

99 Saunders v. M. Donald & Lamar

and— 103 Williamson & Bowerman v. Barteo & Red River

Ordered that the court adjourn until tomorrow morning 10 o'Clock.—

Thursday June 13th 1844.—

The court met pursuant to adjournment, present Ch. Justice Hemphill and associates Ochiltree, Baylor, Mills & Jones—

The following motion made by M.B. Shelby Esq. was ordered to be entered on the minutes of the court.

"The court is most respectfully requested to set aside the rule made on the last day of the last Court pointing out the method in which the causes should be taken up at this Term, and that said causes be taken up according to the time of filing them in this Court after the cases in the Seventh District are disposed of".—

Geo. Hamilton v. M Kinzie & Red River

argument concluded and cause submitted to the court.

The following causes were continued by consent of attorneys until the next Term of the Court & 37 Daley v. Bodine and 40 Bodine v. Daley.

Ordered that the court adjourn until Monday morning 10 o'Clock.—

Monday 17th June 1844.—

The court met pursuant to adjournment present Ch. Justice Hemphill and associates

Achiltree, Baylor, Jack, Mills, Wm. J. Jones and Wm. E. Jones

177. Peterson v. Gray & Bowie
argued and submitted to the court.

201. Ricker v. Freeman & Williams & Red River
Argued and submitted to the court.

202. Ricker v. Freeman & Williams & Red River
Argued and submitted to the court.

Ordered that the court adjourn until tomorrow morning 9 o'clock. —

Tuesday 18th June 1844. —

The court met pursuant to adjournment, present Ch. Justice Hemphill and associates Achiltree, Morris, Jack, Baylor, Wm. J. Jones and Wm. E. Jones

179. Republic v. Skinner & Red River
argued and submitted to the court.

204. Hamilton v. Blackstal & Red River
Argument concluded and cause submitted to the court. —

Ordered that the court adjourn until tomorrow morning 9 o'clock. —

Wednesday 19th June 1844. —

The court met pursuant to adjournment, present Ch. Justice Hemphill and associates Achiltree, Morris, Baylor, Wm. J. Jones, and Wm. E. Jones —

205. Sandidal v. Boon & Red River
death of Morton one of the appellees suggested.

In this cause the following motion was ordered to be entered on the minutes of the court.

"E. Allen attorney for Agnitia Morton and Rufus "Morton administrators of the succession of John Morton formerly one of the defendants "in the above named cause suggests the death

of the said John Morlow which has occurred since the appeal was taken to this Court, and prays that this suggestion be entered of Record, and that the said Administrators be made parties for whom he appears, viewing Scire facias"——

Allen & Allen atty for admr.

The following was also ordered to be entered on the minutes—

"And now at this day comes J. D. Mayfield Counsel for Wilson and Ward and suggests the death of John Morlow, and moves that a Scire facias issue to revive said suit against his legal representatives— Mayfield for

178 Hamilton v. Bailie & Bowie } Edwards et al

Argued and submitted to the court.

203. Pow et al. v. Sims et al } Red River

Submitted to the Court.

206. Langford v. Republic } Red River

Argued and submitted to the court

208. Tinnen v. Featherston } Lamar

Argued and submitted to the court.

Ordered that the court adjourn until tomorrow morning 9 o'Clock M.—

Thursday 20th June 1844.—

The Court met pursuant to adjournment present, Ch Justice Hemphill and associates Ochiltree, Morris, Jack, Baylor, Wm J. Jones and Wm Q. Jones—

The following motion was ordered to be entered on the minutes.

137. J. & D. Alderman v. Knight & Hill } Bastrop

"The appellants now suggest to the Court that there is a diminution of the record in this case, that the transcript should show that at the Spring Term 1840 of the District Court when the interlocutory judgment was taken, that said Court did not open its Term until Thursday morning of said first week of said Court, they therefore pray that a

certiorari be awarded to the court below for a more perfect Record". — Lisheron & Gillespie for appellants. —

205. Ward et al v. Boon 3 Davis

The administratrix of morton appears by Eben Allen her attorney waiving scire facias. and the following ordered to be entered on the minutes.

In as much as it does not appear from the transcript that James J. Ward filed his answer in the above suit in the District court it is admitted that said Ward did file his answer there before trial, which answer was a separate one and alleged that he the said Ward was not guilty of the trespasses or wrongs alleged against him in the plaintiffs petition, nor any of them, and of this he puts himself upon the country, and it is agreed that the trial in the Supreme Court shall proceed as if the answer were set forth in the transcript. — Eben Allen atto for J. J. Ward

The following motion was also ordered to be entered on the minutes of the court.

153. Wm Duffield v. Sam Houston 3 St. Augustine & Rule to Suspend 3

"The counsel for appellee Thomas Johnson moves the court to dismiss this appeal upon the following grounds, first, because this court has not jurisdiction of this cause, in this, the order of suspension in this cause is an interlocutory decree and not final judgment, Second, because courts are exclusive judges of the qualifications of their attorneys and counsellors at law who practice before them."

Thomas Johnson atto for Appellee

James A. Wm Waters
Geo. H. Brown
Thomas J. Devine } Esqrs

Practitioners of law of this Republic were admitted to practice in this court.

811. Case v. Broadock 3 Same.

Admitted to the court.

268. Byers v. Jarvis et al 3 Bowie

The counsel for apellee moves for Certiorari requiring the clerk of the District Court to send up to this court certified a full and completed Record.—

269. Allen v. Scott et al 3 Bowie

Cause submitted to the court on the motion of apellee to dismiss the apeal.

270. Vernoy v. Ware 3 Red River

Suggests as a case of delay and submitted to the court.

271. Benge & Blair v. Smith 3 Red River

Argued and submitted to the court

278. Johns v. Republic 3 Red River

Submitted to the court.

285. Hulbert v. Smith et uxor 3 Bowie

Motion for Certiorari granted, requiring the Clerk of the District Court of Bowie County to send up to this court at or before the next Term thereof, certified a full and. completed Record.—

299. Field v. Anderson 3 Harrison

Death of apellee suggested and scire facias ordered to the legal representatives of said Apellee.—

Ordered that the Court adjourn until Monday morning 10. o'Clock.—

Monday June 24th 1844.—

The court met pursuant to adjournment, present. Ch. J. Memphill and Associate Justices, Jack, Wm. J. Jones and Wm. E. Jones.—

301. Mumford et al. v. Hughes 3 Harrison

The counsel for apellee moves to dismiss the apeal.

In consequence of the indisposition of one of the Justices, It was ordered that the court adjourn until tomorrow morning 10 o'Clock.—

Tuesday June 25th 1844.

The court met pursuant to adjournment, present ch. J. Memphille and associates Morris, Jacks, Wm J. Jones and Wm E. Jones.

Nathaniel M. Riker surviving partner of Abram Riker dec'd appellant

201. v. Red River

Isaac P. Freeman & Chaney C. Williams appellees

Opinion of the court delivered by Judge Wm J. Jones.

"This cause coming on to be heard on the transcript of the Record of the District court of Red River County, and it being inspected, and the argument of Counsel heard, because it seems to the court here that there was error in the judgment of the court below, It is considered by this court that the demurrer be sustained, and the judgment of the District court be annulled and reversed, and that the cause be sent back with directions to the District court to allow the plaintiff to amend and proceed to trial upon the merits of the cause, that the appellees pay the cost of this cause in this court expended, let this decision be certified below for execution"

Nathaniel M. Riker surviving partner of Abram Riker dec'd appellant

202. vs Red River

Isaac P. Freeman & Chaney C. Williams appellees.

Opinion of the court delivered by Judge Wm J. Jones. "This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the court here that there was error in the judgment of the court below, It is considered by this court that the demurrer be sustained and the judgment of the District court be annulled and reversed, and that the cause be sent back with directions to the District court to allow the plaintiff to amend and proceed to trial upon

the merits of the cause, that the appellee pay the cost of this cause in this court expended, and that this decision be certified below for execution". —

Robert Hamilton appellant
204. vs Red River
Mary Black admr. appellee

Opinion of the court delivered by Judge Morris. —

"This cause coming on to be heard on the transcript of the record of the court below, and it being inspected and the argument of counsel heard, it seems to the court here that there was no error in the judgment of the court below. It is therefore ordered adjudged and decreed that the judgment of the district court of Red River County, be in all things affirmed, and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution". —

Eli Langford appellant
206. vs Red River
The Republic appellee

Opinion of the court delivered by Ch. J. Hemphill.

"This cause coming on to be heard on the transcript of the record of the court below, and it being inspected and the argument of counsel heard, because it seems to the court here that there was no error in the judgment of the court below, It is ordered, adjudged and decreed that the judgment below be in all things affirmed, and that the appellant pay the cost of this cause in this court expended, and this decision be certified below for execution". —

268. Byers v. Jarvis et al. vs Bowie

Motion for certiorari granted requiring the clerk of the district court of Bowie county to send up to this court certified "&c. or before the next term thereof a full and complete record.

The following causes were continued by consent or motion until the next term of the court.

273. Rogan v. London et ux. Red River
274. Paslow v. Boyce Same
275. Morris v. McKinney Same
argued and submitted to the court.

276. Clement v. Fuller Fannin
Motion for certiorari granted requiring the clerk of the district court to send up to this court certified, a full and complete Record. —

277. Clement v. Fuller Fannin
Motion for certiorari granted requiring the clerk of the District court of Fannin County to send up to this court certified, at or before the next Term thereof a full and complete Record. —

280. Briarly v. Chandler et al. Red River
Continued by consent of parties until the next Term of the court

281. Spencer v. Austin Fannin
Motion for certiorari granted requiring the clerk of the District Court to send up to this court certified, at or before the next Term thereof a full and complete Record. —

282. Williams v. Best Red River
Continued on the motion of appellant until the next Term of the court.

300. Smith v. Jamison Harrison
Dismissed as a case of delay and submitted to the court. —

John M. Stanford et al. appellants
301. — vs Harrison
Maria Hughes appellee

"This cause coming on to be heard on the transcript of the Record of the court below, and the appellant neither appearing by himself or attorney to prosecute the appeal It is ordered adjudged and decreed that the cause be dismissed and the appellant pay the costs of this cause in this court expended, and the decision be certified below for observance." —

The following matters in the case of Eli Langston v. Caphas Allen ordered to be entered

on the minutes of the court.—

In this case should the judgment of the court below in refusing to grant the land prayed for be sustained and the cause dismissed, the attorney for the 7th Judicial District in which the same was tried, moves the court to tax the sum of fifty Dollars as part of the costs allowed by law.—

B. Martin for District Attorney

Ordered that the court adjourn until tomorrow morning 10 o'clock.—

Wednesday 26th June 1844.—

The court met pursuant to adjournment, present, Ch. J. Memphillo and associates Schultze, Morris, Lock, Baylor, Wm J. Jones and Wm E. Jones.—

The following motion was ordered to be entered on the minutes of the court.

John M. Stanford Polly Ann Stanford and Josiah Thompson guardian &c Appellants
301. $64. Exparte
Maria Hughes &c Appellee

It is moved by counsel that the order of the court dismissing said appeal be rescinded for the following reasons, to wit,

1st Because since said appeal was taken one of the appellants has departed this life to wit John M. Stanford and hence a dismissal of the appeal, and a confirmation of the judgment as to said appellant would be a nullity.— 2d Because no judgment should be rendered against Thompson as the Record shews, no service was made upon him as the law requires and hence the whole proceeding is a nullity as to said appellant.

3d The counsel in favor of said motion, and of appellants right to be united entering his name upon the Docket, that he received

a note from Judge Mansfield directing his attention to the case, but overlooked until this morning, and counsel states that he may not be in court when the motion to dismiss the appeal was brought before this court.

4th Because this dismissal of said appeal if at all admissible cannot be made to operate as an affirmance of the judgment of the District court. —

Mansfield
for Appellants

J. D. D. Alderman appellant
137. vs Bastrop
Knight & White appellees

On the motion of appellant, counsel for a certiorari to the clerk of the District court of Bastrop County, no special showing having been made to account satisfactorily for the delay in making this application. The court refuses to grant the motion.

269. Allen v. Lott et al Bowie

Motion to dismiss argued & submitted to the court. —

279. Rowlett v. Fulton Fannin.

Motion for certiorari granted requiring the clerk of the district court of Fannin County to send up to this court certified, at or before the next term thereof a more full and complete Record. —

283. Hardin v. Titus Red River

Argued and submitted to the court.

John R. Garnett et al. appellants
246. vs Fannin
Richard R. McIntyre et ux appellees

"This cause coming on to be heard on the motion of the appellee to dismiss the motion of the appellant for a writ of certiorari, and the said motions in this cause having been considered by the court, It is ordered that the motion on the part of the appellees to dismiss the cause from the docket be overruled, and that a writ of certiorari be directed to the clerk of the District court of Fannin County, commanding him to make a more full and perfect transcript of

the Record of the proceedings in said cause, provided however that the costs of suit be paid by appellants, on or before the first day of October next, and should the same not be paid on or before the time specified, and satisfactory evidence thereof produced to the Clerk of the said District Court, that then and in that case the appeal be considered as dismissed, and the said Clerk be required to issue execution against the appellants as if no appeal had been taken." —

Ordered that the court adjourn until tomorrow morning 10 o'clock. —

Thursday June 27th 1844. —

The Court met pursuant to adjournment, present Ch. J. Murphree and associates Achilles, Morris, Jack, Baylor Wm. Jones and Wm. E. Jones. —

William H. Moore, appellant
vs. — of &c Bowie
William Standefer appellee

"This cause coming on to be heard on the transcript of the Record of the Court below, and the same being inspected, because it seems to the Court here that there was no error therein but that the appeal to this Court was taken for delay. It is therefore considered by the Court here that the judgment below be in all things affirmed together with ten per centum damages to be computed on the principal sum adjudged and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this Court expended. & that this affirmance be certified below for execution".

(1035.)

William B. Revere appellant
259. vs Lamar
William M. Harrison appellee

"This cause coming on to be heard on the transcript of the Record of the court below, and the same being inspected because it seems to the court here that there was no error therein, but that the appeal to this court was taken for delay. It is therefore considered by the court here that the judgment below be in all things affirmed, together with ten per centum damages to be computed on the principal sum adjudged and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this decision be certified below for execution".—

Republic appellant
257. vs Lamar
Heirs of Joseph English appellee

Opinion of the court delivered by Judge Wm. E. Jones —

"This cause coming on to be heard on the transcript of the Record of the district court of Lamar County, and the same being inspected and the argument of counsel heard, because it seems to the court here that there was error in the judgment of the court below. It is ordered adjudged and decreed that the judgment below be annulled and reversed, and the appellee pay the cost of this cause in this court expended. Let this decision be certified below for execution".—

Miriam Sadler appellant
258. vs Lamar
Republic appellee

Opinion of the court delivered by Judge Robertson —

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the

argument of counsel heard, because it seems to the court here that there is no error in the judgment below. It is ordered, adjudged and decreed that the judgment of the court below be in all things affirmed, and that the appellant Sadler ~~xxxxxx~~ pay the cost of this cause in this court expended, and this decision be certified below for execution". —

212. Roberts v. Shorter use of &c. & Fannin

On the agreement of Counsel a writ of certiorari was awarded, commanding the Clerk of the District Court of Fannin County, now or before the next Term of this Court to send up certified a more full and perfect transcript of the Record. —

284. Carr v. Hillsboro & Red River

Argument Commenced. —

Ordered that the court adjourn until tomorrow morning 10. o'Clock. —

Friday June 28th 1844.

The Court met pursuant to adjournment, present Ch.J. Hemphill and Associates Whitfield, Morris, Jack, Baylor, Wm. J. Jones and Wm. E. Jones.

In the case of John & Lucy Robbins vs. Hannah Walter & Montgomery

The affidavit of William Robbins and motion of Counsel praying the above cause to be docketed, has been duly considered by the Court & overruled. —

Cornelius Vernoy appellant

270. vs & Red River

John Hare appellee

This cause coming on to be heard on the transcript of the Record of the court below, and it being suggested because it seems to the court here that there is no error therein, but that the appeal to this court was taken for delay, It is therefore considered by the

court here (1014) that the judgment herein be in all things affirmed, together with ten per centum damages to be computed on the principal sum adjudged and added to the amount recovered, and that the appellee recover of the appellant his costs in this behalf in this court expended. Let this affirmance be certified below for execution."—

James L. Smith appellant
200. vs 3 Harrison
William Jamison appellee

Opinion of the court delivered by Judge Pack.—

"This cause coming on to be heard on the transcript of the record of the court below, and the same being inspected, it seems to the court here that there is no error therein but that the appeal to this court was taken for delay. It is therefore considered by the court here that the judgment below be in all things affirmed together with ten per centum damages to be computed on the principal sum adjudged, and added to the amount recovered, and that the appellee recover of the appellant his costs in this cause in this court expended. Let this affirmance be certified below for execution."—

John Rice appellant
272 vs 3 Red River
Jas. H. & Saml. L. Sims appellees

"This cause coming on to be heard on the transcript of the record of the court below, and the same being inspected and the argument of counsel heard, because it seems to the court here that there was no error in the judgment of the court below, It is therefore ordered adjudged and decreed that the judgment below be in all things affirmed, and the appellant pay the cost of this cause in this court expended, and this decision be certified below for execution."—

109 Dennis v. Reynolds 3 Red River
Continued until the next term of the court.

284. Carr v. Williams ⅔

Argument concluded and cause submitted to the court

286. Gordon v. Perry ⅔ Red River

Argued & submitted to the court.

Ordered that the court adjourn until Monday morning 10. o'Clock A.M.

Monday July 1st 1844.

The court met pursuant to adjournment present Ch. J. Murphy and associates Achitree, Morris, Baylor, Wm. J. Jones & Wm. E. Jones

George & Mercer
16th ⅔ Colorado
Riddle Walker Ch Justice

Counsel for appellant moves to recitate the above named cause upon the Docket on the merits which was dismissed at the June Term 1843. Motion & affidavit submitted to the court.

Hansford et al. appellt
301. ⅔ Harrison
Maria Hughes appellee

The motion of J. S. Mayfield Esq. praying the court to rescind their order dismissing the above named appeal was overruled by the court.

James J. Ford et al. appellants
205. ⅔ Red River
Jacob H. Boon appellee

Opinion of the court delivered by Judge Achitree.

"This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of counsel heard, It seems to the court here that there was no error in the judgment of the District Court of Red River County, It is ordered adjudged and decreed that the judgment below be in all things affirmed, and the appellant pay the cost of this cause in this court

expended, let this decision be certified below for execution".—

William B. Benge & for Blair appellant

271 U 3 Red River—

Simpson Smith appellee

Opinion of the court delivered by Judge William F. Jones.—

"This cause coming on to be heard on the transcript of the Record of the court below, and the same being inspected and the argument of counsel heard, because it seems to the court here that there is no sufficient error in the Record to reverse it is ordered adjudged and decreed that the judgment of the court below be in all things affirmed, and the appellants pay the cost of this cause in this court expended. Let this decision be certified below for execution".—

On motion

James Davis Esq.

a practitioner of the Supreme Court of this Republic was admitted to practice in this court.—

269. Allen & Scott et al. 3 Race

This cause was reopened, and after the argument of some length it was

Ordered that the court adjourn until tomorrow morning 10. O'Clock.—

Tuesday July 2d 1844.—

The court met pursuant to adjournment, present Ch. J. Hemphill and associates Morris, Baylor, Wells, Lipscomb, Jones and Wm. E. Jones.—

George & others

169. v. E Colorado

Walker Ch. Justice

The motion and affidavit of appellants counsel to reinstate this cause on the Docket which was dismissed at the

June Term 1843. having been considered by the Court was overruled. —

269. Allen v. Scott et al. & Bonnie

Argument concluded and cause submitted to the Court. —

35. Dailey v. Chevallier & San Augustine

Submitted to the Court. —

The following causes were continued by consent of attorneys until the next Term of the Court

41. Kirkman v. Swinely & Tracy & others

98. B of L. Comm. v. Reily & "

Nos 82.-83. — 157. — and 158. Sipon v. Anderson Collector, were continued until the next Term of the court

153. Duffield v. Houston & San Augustine

Motion to dismiss argued & submitted to the Court. —

Grafton H. Bayne Appellant

195. vs & San Augustine

Davis & Brooks

This cause coming on to be heard on the transcript of the Record of the Court below, and the appellant neither appearing by himself or attorney to prosecute the appeal, It is ordered adjudged and decreed that the appeal be dismissed and the appellant pay the cost of this cause in this court expended, Let this decision be certified below for observance".

247. Wolfe v. Stephens & Tracy & others

This Cause was suggested as a case of delay, argued and submitted to the Court. —

Ordered that the court adjourn until to morrow morning 10. o'clock. &

Wednesday July 3d 1844. —

The Court met pursuant to adjournment, present Ch. J. Hemphill, and Associate Justices Morris, Lacy, Baylor, Wills, Wm. F. Jones and Abner S. Lipscomb. —

The following causes were continued until the next Term of the Court by the consent of attorneys —

No 14. Board of L. Comm'rs Rapley & Logan Ex parte
" 36. Lessing v. Stiles Ex San Augustine
" 138. Lowings v. Loydadun Ex "
" 196. Hunter v. Thompson Ex "
" 248. Duffield v. Bodine adm Ex "
" 289. Horton v. Campbell et al Ex "
" 265. Franklin v. Mooney Ex Nacogdoches
" 175. Keller v. Webb Ex Victoria
" 135. Republic v. Hardcastle Ex Bastrop
" 136. Republic v. Richardson Ex "

264. Chevallier v. Buford Ex Nacogdoches

In this cause the counsel for appellant suggests diminution of the Record and moves for Certiorari requiring the Clerk of the District court of Nacogdoches County to send up to this Court certified, at or before the next Term thereof a more full and perfect transcript of the Record. —

266. Chevallier v. Rusk Ex Nacogdoches

Submitted to the court. —

290. Republic v. Nash & Hallett Ex San Augustine

Argued and submitted to the Court.

John A. Seguin appellant
42. vs Ex Bexar
City of San Antonio appellee

"This cause coming on to be heard on the transcript of the Record of the Court below, and the appellant neither appearing by himself or attorney to prosecute the appeal, It is ordered adjudged and decreed that the appeal be dismissed, and the appellant

pay the cost of this cause in this court expended, let this decision be certified below for observance." —

Thomas Menefee appellant

92. by E. Jackson

William Mullican appellee

"This cause coming on to be heard on the transcript of the record of the Court below, and the appellant neither appearing by himself or attorney to prosecute the appeal, It is ordered, adjudged and decreed that the appeal be dismissed, and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for observance". —

Silvanus Hatch appellant

93. by E. Jackson

F. J. Gray appellee

"This cause coming on to be heard on the transcript of the record of the Court below, and the appellant neither appearing by himself or attorney to prosecute the appeal, It is ordered adjudged and decreed that the appeal be dismissed, and the appellant pay the cost of this cause in this court expended, let this decision be certified below for observance". —

112. Paschal v. Segura & Bexar

Submitted to the Court. —

In Ex Parte Tumlinson by Gonzales

"This cause coming on to be heard on the transcript of the record of the Court below, and the appellant neither appearing by himself or attorney to prosecute the appeal, It is ordered adjudged & decreed that the appeal be dismissed, and the said Tumlinson pay the cost of this cause in this Court expended, let this decision be cer-

-tified below for observance".

244. Dimitt et al. v. Power & Refugio

In this cause the order of the last Term of the Court was renewed, requiring the Clerk of this court to issue a writ of Scire facias, when the administrator of appellant is known, Cause continued until the next Term of the court.

Carlisle & Quinn appellants

244. vs & Victoria

Patricia DeLaganza appellee

"This cause coming on to be heard on the transcript of the Record of the court below, and the appellants neither appearing by themselves or attorneys to prosecute the appeal, It is ordered adjudged and decreed that the appeal be dismissed, and the appellants pay the cost of this cause in this court expended. Let this decision be certified below for observance".

115. Holly Bland v. Saunders & Harrington

In this cause it is ordered by the Court that an alias Scire facias issue to the legal representatives of appellant Holly Bland when known.

Pedro Cortez Sheff. appellants

134. vs & Baptiste

Robert H. Wynn appellee

"This cause coming on to be heard on the transcript of the Record of the Court below, and the appellant neither appearing by themself or attorney to prosecute the appeal, It is ordered adjudged and decreed that the appeal be dismissed, and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for observance".

Ordered that the Court adjourn until Friday morning 10 O'clock.

Friday July 5th 1844. —

The Court met pursuant to adjournment, present Ch. J. Hornsby and Associates Conklin, Morris & Jones and Mr. Jones. —

The following motion was ordered to be entered on the minutes of the Court, —

Collard
v. } Appeal from Montgomery Dist. Court
Gray

The Plaintiff suggests a diminution of the Record, and for reasons of hearing on the face of the transcript, moves for a Certiorari to the Clerk to send a more perfect Record. —

John Taylor
atty. for Appellant

218. Shelby v. Johnson & Gonzales
Argued and submitted to the Court. —

30. Morton v. Brown & Bartlett
This cause having been argued at the last Term of the Court is continued under advisement. —

214. Moore v. Harbert & Davis
Submitted to the Court.

The following causes were continued until the next Term of the Court —

287. Brockett v. Jarman & Davis
288. Alexander v. Jarman "
291. Secrest v. Townsend & Colorado
234 Dewees v. Hudgeons & Colorado

The Counsel for Appellant suggests diminutions of the Record, and moves the Court for an alias Certiorari requiring the Clerk of the District Court of Colorado County to send up to this Court at or before its next Term a more full and perfect transcript of the Record

144. Cooke v. Hall & Harris
Suggested as a case of delay and submitted to the Court. —

167. Fentress & Harris & Harris
Suggested a release of delay and
submitted to the court.
Ordered that the court adjourn until
Monday morning 10. o'Clock. a.m.

Monday July 8th 1844.

The court met pursuant to adjournment present Chf. J. Nemphill and associate Justices, Morris, Jack, Baylor, Wm. J. Jones, and Wm. E. Jones.

Elijah Stephenson appellant.
88. vs E Bonnie
William B. Hawkins appellee

Opinion of the court delivered by Judge Wm. E. Jones.

This cause coming on to be heard on the transcript of the Record of the court below and it being inspected, and the argument of Counsel heard, because it seems to the court here that there was no error in the judgment of the Court below, It is ordered adjudged and decreed that the judgment of the court below be in all things affirmed, and the appellant do pay the cost of this cause in this Court expended. Let this decision be certified below for execution.

Robert Hamilton appellant
178. vs E Bonnie
Owen D. Battle & J. W. Fort appellees

Opinion of the court delivered by Judge Wm. E. Jones.

This cause coming on to be heard on the transcript of the Record of the Court below, and the same being inspected and the argument of Counsel heard, because it seems to the court here that there was no error in the judgment of the Circuit Court of Bonnie County, It is ordered adjudged and decreed that the judgment below be in all things affirmed and the respondent pay the cost of this cause in this Court expended. Let this decision be

Certified below for execution. —

Republic of Texas Appellant —

197. vs. Red River

Abraham Skidmore Appellee

Opinion of the Court de-
-livered by Judge Baylor, —

Judge Ochiltree delivering a dis-
-senting opinion —

This cause coming on to be heard
on the transcript of the Record of the court
below, and it being inspected and the argu-
-ment of Counsel heard, because it seems
to the Court here that there was error in the
judgment of the Court below. It is ordered
adjudged and decreed, that the verdict and
judgment of the Court below be set aside
annulled and reversed, that the cause be
remanded and a new trial awarded in the
Court below in order that the Appellee may
shew by additional proof if he can, wherein
he be entitled to the amount of land sued
for, or a less quantity, that he be permitted
to amend his petition to meet the circum-
-stances of his case, and that the Appellee
Skidmore pay the cost of this cause in
this Court expended. Let this decision be
certified below for execution. —

Lawrence W. Turner Appellant

208. vs. Lamar

James Weatherford Appellee

Opinion of the Court delivered
by Judge Wm. F. Jones —

This cause coming on to be
heard on the transcript of the Record of the
Court below, and it being inspected and the
argument of Counsel heard, because it seems
to the Court here that there is no error in the
judgment of the Court below. It is ordered
adjudged and decreed that the judgment of
the Court below be in all things affirmed —
and that the Appellant pay the cost of this
cause in this Court expended. Let this decision
be certified below for execution. —

Thomas C. Doss afpellant
117.
211. vs. Error
John R. Cradduck afpellee

Opinion of the court delivered by Judge Achittee. —

This cause coming on to be heard on the transcript of the Record of the Court below, and the same being inspected it appears there is no statement of fact, or Bill of exceptions. It is ordered adjudged and decreed that the judgment of the Court below be in all things affirmed, and the afpellant pay the Cost of this cause in this Court expended. Let this decision be certified below for execution. —

Lee Morris afpellant
275. vs. Error
Ashley & Colin McKinney afpellees

Opinion of the court delivered by Judge Morris —

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of Counsel heard, because it seems to the Court here that there was error in the judgment of the Court below. It is ordered adjudged and decreed that the judgment of the court below be annulled and reversed, that the demurrer be overruled, and the cause remanded to proceed upon the merits, and the afpellee pay the Cost of this cause in this Court expended. Let this decision be certified below for execution. —

John Hardin afpellant
283. vs. Red River
Ebenezer Tebbs afpellee

Opinion of the Court delivered by Judge Achittee. —

This cause coming on to be heard in the transcript of the Record of the Court below and it being inspected and the argument of Counsel heard, because it is ordered adjudged and decreed that the judgment of the Court below be annulled reversed, and that the [illegible] pay the Cost of this Cause in this Court [illegible]

Let this decision be certified below for execution.—

Charles Abercrombie appellant
vs. } Nacogdoches
David Rusk appellee

Opinion of the Court delivered by Judge Abner S. Jones.—

This cause coming on to be heard on the transcript of the Record of this Court below, and it being inspected, and the argument of Counsel heard, It seems to the Court here that there was error in the judgment of the Court below, It is therefore ordered adjudged and decreed that the judgment of the Court below be annulled and reversed and the cause remanded to the District Court of Nacogdoches County with instructions that the Defendant be allowed to amend his pleadings and proceed to trial upon the merits, and the appellee pay the Cost of this Cause in this Court expended Let this decision be certified below for execution.—

Republic of Texas
vs. } San Augustine
Nash & Mahaffitt

Opinion of the Court delivered by Ch. Justice Hemphill.—

This cause coming on to be heard on the transcript of the Record of the Court below and it appearing to the Court here that there was no judgment of the Court below. It is therefore ordered adjudged & decreed that the cause be dismissed for want of jurisdiction and the said Nash & Mahaffitt pay the cost of this cause in this Court expended. Let this decision be certified below for observance.—

On motion,
C. W. Buckley
&
Wm. H. Palmer } Esqrs
Practitioners of law of this Republic were admitted to practice in this Court.—

U.S. vs. Townsend & Harris
Continued for the court.—

119.

146. Delmore & Redding v. Corporation of Bardstown } Barton
Argued & submitted to the court.
191. Harlan v. Barker } Robertson
Submitted to the court.

Ordered that the court adjourn until tomorrow morning 10. o'Clock —

Tuesday July 9th 1844. —

The court met pursuant to adjourn-ment, present Ch. J. Kemphill and associates Archibald Morris, Jack, Wm. J. Jones & Wm. B. Jones.

Thomas Jefferson Chambers Plff in error
232. vs } Robertson Clerk. Court
John C. Saylor Deft in error

The Plaintiff moves the court for a certiorari to the clerk of the court below to send up a more perfect Record upon sug-gestion of Diminution. —

John Taylor
atto. for Plaintiff

116. Robertson v. McMillan } Robertson
Argued & submitted to the court

The following causes were continued until the next Term of the court —

184. Wharton v. Lee } Washington
243. Toler & Crosby v. Ayres } Washington
261. Alderman v. Craft } Barbour
262. McDonald v. Hanevek } "
319. Sherod v. Barton } Nelson
260. White v. Guy's executors } Washington

Submitted to the court.

Ordered that the court adjourn until tomorrow morning 10. o'Clock —

Wednesday July 10th 1844. —

The court met pursuant to adjourn-ment present Ch. J. Kemphill and associates

Motion for Writs of Error and Supersedeas
The motion was argued by

Chamberlain
for
Ingram

On the part of plaintiff, for certiorari
leaving Record duly Corrected by the Court
was overruled. —

F. F. Chamberlain
for Writ of Error & Supersedeas Motion cit. Ch.
Henry Hodges

The plaintiff in Error now moves
for a Certiorari to the Clerk of the Court below
to send up a more full and perfect transcript of the Record
& proceedings and decision of Court. —

F. F. Chamberlain
for Writ of Error & Motion cit. Ch.
John D. Ingram

In this case the plaintiff
in error moves the Court for a Certiorari to
the Clerk below, requiring them to send up
a more full and perfect transcripts of the Record.
—

14 J. Ga. Rep. Hampton v. Robertson cit. & Affd.

The death of attorney having
been suggested, by Counsel E. F. Chamberlain
and William D. Ingram and administrators
with the will annexed, leave made for like
appearance. —

The following cases were continued
by consent of Attorneys until the next Term
of the Court. —

132. Heirs of Edwards v. Heirs of Robinson } Error
235. Scott use &c. v. Brewer } "
253. Republic v. Deacon } "
255. Heirs of Burgess v. Republic } "
77. Spraggins v. Blackett } Affirmance
31. Edwards v. Read } Dismissed
137. Williams v. Rabb } Dismissed
175. Read & Lewis v. Rhodes } "
182. Hospital &c. Collier v. Board of Supervisors } Affirmance
213. Hawthorn v. Deacon } "
264. Williams v. Mims & Mims } Affirmance

314. Edward Lo. Smith Attorney at Magee in
Jeo. Meerkerk & Karen vs Magee
Decree
234. C. J. Coleman
Keeling

This cause coming on to be heard upon the Bill of Complaint, Answer and Replication of the Complainant, Exhibits, Depositions and Testimony taken in open Court, and the Solicitors of the respective parties being heard, It is ordered adjudged and decreed that the defendant Edward Smith be perpetually enjoined from further prosecuting the suit at law mentioned in the Bill of Complaint, and that the injunction heretofore granted be made perpetual.

J. H. C. Patten Chancellor

252. C. J. Coleman
Wardell & Mooney vs Peters

This cause coming on to be heard upon the Bill of Complaint, Answer and Replication of the Complainants, Exhibits, Depositions and Testimony taken and the Solicitors of the respective parties being heard, It is ordered adjudged and decreed that the defendant Peters do pay to the Complainants the sum of Two hundred and Seventy Dollars and Seventy five cents, the amount of the Note sued on in this cause, with interest thereon from the 1st day of January 1844 till paid, and the costs of this suit.

J. H. C. Patten Chancellor

254. C. J. Coleman
Wardell & Mooney vs Peters

This cause coming on to be heard upon the Bill of Complaint, Answer and Replication of the Complainants, Exhibits, Depositions and Testimony taken and the Solicitors of the respective parties being heard, It is ordered adjudged and decreed that the defendant Peters do pay to the Complainants the sum of Two hundred and Seventy Dollars and Seventy five cents, the amount of the Note sued on in this cause, with interest thereon from the 1st day of January 1844 till paid, and the costs of this suit.

J. H. C. Patten Chancellor

[illegible]
C. J. Coleman
Wardell & Mooney

This cause coming on to be heard upon the Bill of Complaint, Answer and Replication of the Complainants, Exhibits, Depositions and Testimony taken and the Solicitors of the respective parties being heard, It is ordered adjudged and decreed that the defendant Peters do pay to the Complainants the sum of Two hundred and Seventy Dollars and Seventy five cents, the amount of the Note sued on in this cause, with interest thereon from the 1st day of January 1844 till paid, and the costs of this suit.

-fearing by himself or attorney to prosecute the appeal. It is ordered adjudged and decreed that the appeal be dismissed, and the appellant pay the cost of this cause in this Court expended. Let this decision be certified below for observance. —

139. Coote v. Bailey & Harris

Suggested as a case of delay and and submitted to the Court by the Counsel for appellee —

Ordered that the court adjourn until tomorrow morning 10. O'Clock —

Monday July 11th 1844. —

The court met pursuant to adjournment present Ch J. Memphillo and associates Morris, Jack, Wm F. Jones and Wm E. Jones —

The Cause of

Sam Houston Pet. v. Roberts, was placed at the head of the Docket —

188. In re Healey et al. v. Taylor & Montgomery

The motion of appellant for Certiorari was argued & submitted to the Court.

Ordered that the court adjourn until tomorrow morning 10. O'Clock. —

Friday July 12th 1844. —

The Court met pursuant to adjournment present Ch J. Memphillo and associates Morris, Jack, Wm F. Jones and Wm E. Jones —

A. D. Shumpert vs. Pat. Judge

2,3,8. Lee & Morris

C. W. Breedlove & Dunn.

The appellee moves to dismiss the appeal because the Record was not filed within the time required by the rule of court.

232. Chandler v. Lyman & Robertson

Argument Commenced. —

Ordered that the court adjourn until monday morning 10. o'Clock. —

Monday July 15th 1844. —

The court met pursuant to adjourn=ment, present Ch. J. Humphrills and associate Justices, Mervin Mills, Wm. J. Jones and Wm. Ch. Jones. —

James Smith appellant

145. vs Ex parte

A. Townsend appellee

Opinion of the court de=livered by Ch. J. Humphrills. —

This cause came on to be heard on the transcript of the Record of the Court below, and it being suggested and the argument of Counsel heard because it seems to the court here that there was no error in the court below, It is therefore ordered adjudged and decreed that the judgment of the court below be in all things affirm=ed, and the appellant pay the costs of this cause in this court expended. And that this decision be certified below for execution. —

Corporation of Baltimore appellant

146. vs Baltimore

Gilmore & Reading appellees

Opinion of the court delivered by Ch. J. Humphrills —

This cause coming on to be heard on the transcript of the Record of the Court below, and the argument

-ted. It appears to the Court here that no copy of a bond has been sent up to this Court It is therefore ordered adjudged and decreed that the same be dismissed, and the appellant pay the cost of this cause in this Court expended. Let this decision be certified below for observance —

Joseph Harlan &c Appellant

vs

John Patterson &c Appellee

Opinion of the Court delivered by Judge Wade J. Jones. —

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of Counsel heard, because it seems to the Court here that there was no error in the judgment of the Court below It is ordered adjudged and decreed that the judgment of the Court below be in all things affirmed and the appellant pay the cost of this cause in this Court expended. Let this decision be certified below for redention. —

Saml Whiting &c Appellant

vs

William Pettit &c Appellee

The appellee by attorney moves to dismiss the appeal because there is no sufficient bond executed by appellant in this Case. —

Clement R Johns &c Appellant

vs

The Republic &c Appellee

Opinion of the Court delivered by Ch. J. Hemphill —

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of Counsel heard, because it

seems to the court here that there was no error in the court below. It is ordered adjudged and decreed that the appeal be dismissed, and the judgment of the court below be in all things affirmed, and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution. —

Jesse B. McCleskey et al. appts.
vs
188. Montgomery
William L. Taylor. appellee

The motion and affidavit of appellants counsel in this case for a writ of Certiorari to the Clerk of the District court of Montgomery County, having been considered by the court, the motion was granted without prejudice to the right of the appellee to a trial at this Term if urged on his part. —

Joh. Collard appellant
vs
231. Montgomery
Richard Gay appellee

The motion and affidavit of appellants counsel in this case for a writ of Certiorari to the Clerk of the District Court of Montgomery County having been considered by the court, the motion is granted without prejudice to the rights of the appellee to a trial at this Term should the same be urged on his part. —

Edrington
vs
321. Harris
Lenoir

The motion of counsel for plff. in error to allow the above stated error was granted, and a writ of certiorari directing the Clerk of the District court of Harris County to send up to this court Certified at or before the next Term thereof a more full and perfect transcript of the Record. —

The following letter of resignation having been received by the court from

ordered to be spread upon the minutes —
Washington July 15th 1844. —

To the Hon.ble
Ch. Justice & Asso. Judges of the Sup. Ct.

I have the honor herewith to tender to you my resignation as Clerk of the Supreme Court which I beg you honor to accept. —

I have the honor to be
Respectfully your obed.t Serv.t
Thomas Green

Whereupon the Court appointed the said Thomas Green Clerk Pro. tem. until a regular appointment may be made. —

Ordered that the Court adjourn until tomorrow morning 10. o'clock. —

Tuesday July 16th 1844. —

The Court met pursuant to adjournment present Ch. J. Hemphill and associate Justices Morris, Mills Wm. J. Jones and Wm. E. Jones. —

The following causes were ordered to be docketed —

322. Perkins v. Whiting & Morris
323. Hunt v. Cameron & Labuzan
324. Mitchell v. Barlow & Harris

In this cause the appellee having been struck out the Record and the Court for non appearance of the plaintiff in error,

306. Frost v. Frost & Harris

The appellee by Counsel moves to dismiss this cause because the appellant has not given the requisite security and paid the Clerk

land, and no evidence (Rev. St. c. 19 § 46. Limitation act 1821.)

232. Chambers v. Symmes & Robertson

Jan. Term. Cause the argument was concluded, and cause submitted to the court

78. Briceo v. Cazier et al & Harris

argued and submitted to the court.

Ordered that the court adjourn until tomorrow morning 10. o'Clock.—

Wednesday July 17th 1844.—

The court met pursuant to adjournment, present Ch. J. Humphrey, and Associate Architree, Morris, Mills, Baylor, Wm. J. Jones and Wm. C. Jones.—

308. Holman v. McNeill & Harris

Counsel for defendant in Error moves the court to strike from the Record that part of it purporting to be a statement of facts, for reasons set forth in his motion.—

310. Sam'l Whiting v. W.H. Grimes & Harris

Defendant in error moves the court to dismiss the cause for reasons set forth in his motion.—

Wm. M. Cook appellant

139. by &c Harris

J. W. Bailey appellee

This cause coming on to be heard on the transcript of the Record of the Court below and it being inspected, because it seems to the Court here that there is no error therein but that the appeal to this Court was taken for delay, It is therefore considered by the Court here that the said judgment below be in all things affirmed, together with ten per centum damages to be paid by the said appellant to the said appellee and added to the amount recovered, and that the appellee do recover of the appellant his costs in this behalf by the said Court expended. Let this mandate be certified below for execution.—

The Ch. Justice announced that the Supreme Court had appointed Thomas Green Clerk of said Court for and during the next four years. —

80. Crosby v. Huston & Harris
Argument commenced —

Ordered that the court adjourn until tomorrow morning 10. o'clock. —

Thursday July 18th 1844. —

The court met pursuant to adjournment, present Ch. J. Hemphill and associates Ochiltree, Morris, Baylor, Wm. J. Jones and Wm. E. Jones. —

The Supreme Court having appointed Thomas Green Clerk of said Court the said Green took in open Court the oath to support the Constitution, and gave the following Bond which was approved by the Court. —

(Bond)

Know all men by these presents that we Thomas Green as principal and John B. Jones, James B. Shaw Abner S. Lipscomb and Joseph C. Megginson as securities, are held and firmly bound unto Sam Houston President of the Republic of Texas and his successors in office in the penal sum of twenty thousand dollars lawful money to the payment of which we bind ourselves our heirs &c jointly and severally, firmly by these presents.

The conditions of the above obligation is such, that whereas the above bounden Thomas Green is appointed Clerk of the Supreme Court of the Republic of Texas by the aforesaid Court on the 18th day of July inst. And whereas said Thomas Green

and forty four. Now if the said Thomas Green shall faithfully perform the duties of the said office of Clerk of the Supreme Court aforesaid and shall decorously Record the judgments, decrees decisions and orders of the said Court and deliver over to his successor in office all the Records, minutes, Books, papers and whatsoever belongs to his said office of Clerk when required so to do according to Law, then the above obligation to be null and void, otherwise to remain in full force and virtue, witness our hands and Seals, affixing our Scrolls by way of a Seal, at Wilmington this seventeenth day of July A.D. One thousand eight hundred and forty four. —

Thomas Green (Seal)
John B. Jones (Seal)
(Signed) Abner S. Lefferts (Seal)
Jas. C. Maxwell (Seal)
James Bohan (Seal)

Approved July 18th 1844. —

John Stemphill Ch. Justice Supr. Ct.
R. Morris
R. E. B. Baylor.
Wm J. Jones
Wm E. Jones
John F. Mills
W. B. Ochiltree
R. E. Jack
Assn. Judges.

139. Coote v. Bailey & Harris

In this cause counsel for Appellee moves the court for Judgment upon the Recognizance in the Appeal Bond as made & the Rule thereupon. —

The following causes on the motions of Attorneys were ordered to be docketed.

325. Record and Trans. Refer this & Writ gate

326. Republic v. Dikes } Gonzales
327. Lockhart adm'r v. Republic } "
328. Ross v. Compton } Fort Bend
80. Crosby v. Hunton } Harris
Argument Continued —
Ordered that the Court adjourn until
tomorrow morning 10 o'Clock. —

Friday July 19th 1844. —
The Court met pursuant
to adjournment present Ch. J. Hemphill
and associate Arbitrees: Morris, Baylor,
Wm. J. Jones and Wm. E. Jones —
Ross appellant
328. v } Fort Bend
Briscoe appellee
In this cause the appellee moves
the Court to dismiss the cause for reasons
set forth in his motion. — The following
causes were Continued by Consent until
the next Term of the Court —
325. Howard v. Republic } Gonzales
326. Republic v. Dikes } "
327. Lockhart adm'r v. Republic } "
184. McNealy et al. v. Taylor } Montgomery
233. Green adm'r v. Franklin } Liberty
294. Green adm'r v. Chassaigne } "
295. Green adm'r v. Voizat } "
297. Thurmon & Chassaigne v. Melzle } "
231. Collard v. Gray } Montgomery
161. Jones & Smith v. Lewenhagen & Gerlach
In this cause the death
of defendant Gerlach was suggested and
Scire facias ordered to Charles J. Gerlach
adm'r of Ferdinand Gerlach with copy of
petition for writ of Error. —

168. Cordova pltf. v. Priestly } Harris
In this cause parties to be made by agreement of Counsel at the next Term of the Court.—

224. Larson v. Moore } Harris
Death of apellant suggested and and Scire facias ordered to the legal representatives when known.—

230. Chambers v. Stokes } Liberty
On motion of apellant an alias Citation was granted.—

311. Culp v. B. of R. Revenue et al } Harris
In this cause the facts are to be agreed on by the Counsels and filed with the Record.—

80. Crosby v. Hurlow } Harris
argument cont.'d

Ordered that the court adjourn until tomorrow morning 10. o'Clock.—

Saturday July 20th 1844.—

The court met pursuant to adjournment, present Ch. J. Hemphill, and associates Ochiltree, Morris, Baylor. Wm. F. Jones & Wm. E. Jones.—

328. Bass v. Compton } Fort Bend
In this cause the motion of apellee to dismiss the cause from the docket having been considered by the court is overruled.

Randall Robertson Pltf. in Error
116. vs } Roberts
Andrew McMillan Deft. in Error

Opinion of the court delivered by Judge Ochiltree.—

This cause coming on to be heard on the transcripts of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the Court that there was error in the

judgment of the court below, It is therefore considered by the court here that the plaintiff M.c Millan (in the court below) do recover of the defendant below, the premises in dispute together with one dollar for his damages and all his costs in this behalf expended, and this decision be certified below for execution.—

Robert Mitchell appellant
224. vs Harris
Wayne Barlow appellee

Opinion delivered by Judge Ch. Marshall.

This cause came upon a motion of the appellee to affirm the judgment below, and the transcript in this case appearing to be entirely defective in every essential requisite under the 10th Rule for the Government of the Supreme Court that the court declines any further action thereon.—

80. Crosby v. Hunton vs Harris
Argument concluded and cause submitted to the court.—

Ordered that the court adjourn until Monday morning 10 o'Clock.—

Monday morning July 22d. 1844.—

The court met pursuant to adjournment, present Ch. J. Marshall and associates Morris, Baylor Wm. J. Jones and Wm. A. Jones.—

D. M. Herbert appellant
214. vs Harris
Thomas A. Moore appellee

Opinion of the court delivered by Judge Wm. J. Jones.—

This cause coming on to be

heard on the transcript of the Record of the
court below and it being inspected and the
argument of counsel heard because it seems
to the court here that there was error in the
judgment of the court below. It is ordered
adjudged and decreed that the judgment of the
court below be annulled and reversed, and
the appellee more pay the cost of this suit
in this court expended - but this decision be
certified below for execution. -

Solomon Wolfe appellant
247. vs 3/5 Sacrogdoches
Robert Stephens appellee

Opinion of the court delivered
by Judge Wm. F. Jones -

This cause coming on to be
heard on the transcript of the Record of the court
below, and it being inspected and the argument
of Counsel heard because it seems to the
court here that there was no error in the court
below. It is ordered adjudged and decreed that
the judgment of the court below be in all
things affirmed and the appellant pay the
cost of this cause in this court expended.
Let this decision be certified below for
execution. -

Jesse Carr by
David A Monaghan
his guardian appellant
284. vs 3/5 Red River
William William appellee

Opinion of the court delivered by
Judge Morris -

This cause coming on to be
heard on the transcript of the Record of the court
below, and it being inspected and the argument
of Counsel heard because it seems to the
Court here that the court below erred in
sustaining the demurrer, It is therefore
Ordered adjudged and decreed that the judg-
-ment of the court below be reversed, the
demurrer overruled, and the cause

-ded to proceed to hear the Bill and Answers and the appellee pay the cost of this cause in this Court expended. Let this decision be certified below for execution. —

Raymond Daily admr appellant
vs. on 3 Dan Langentine
Charles Chevallier appellee

Opinion of the Court delivered by Judge Baylor. —

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected, it seems to the Court here that there was no error in the Court below. It is ordered adjudged and decreed that the judgment of the Court below be in all things affirmed, and the appellant pay the cost of this cause in this Court expended. Let this decision be certified below for execution. —

A. D. Shelby appellant
218. vs 3 Gonzales
Thomas J Thurston

Opinion of the Court delivered by Ch. Justice Abercrombie —

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected, it seems to the Court here that the judgment of the Court below was erroneous. It is therefore ordered adjudged and decreed that the judgment of the Court below be reversed and annulled and the appellee pay the cost of this cause in this Court expended. Let this decision be certified below for execution. —

J. D. Holderman pltff in Error.
137. vs 3 Bartlett
Knight & White deft's in Error

Opinion of the Court delivered by Judge Wm E. Jones. —

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of Counsel heard, it seems to the Court here that there was error in the Court below. It is therefore

Ordered adjudged and decreed by the Court here that the judgment of the Court below be affirmed and that the Defendant in Error in this Court do recover of the Plaintiffs in Error the principal sum of Five Thousand Dollars debt and the further sum of seven hundred and three dollars and thirty three Cents interest up to the 23d day of November 1840. with interest on the principal sum at five per Cent per annum from the 23d day of November 1840. until paid together with Costs of suit in this behalf expended - It is further ordered adjudged and decreed that the mortgage described in the petition of Plaintiffs in the Court below be foreclosed, and that the mortgaged premises in said mortgage described be appraised & sold in the terms of the Statute, and the surplus if any there be arising from the sale be paid to the Plaintiffs in Error and if there shall not be a sufficiency to satisfy this judgment that the Defendants in Error have execution for the residue and that this judgment be certified below for execution -

Thomas J. Chambers plff in Error
232 vs
John D. Sydnor Defendant in Error

Opinion of the Court delivered by Judge Morris -

This cause coming on to be heard on the transcript of the Record of the Court below, and it being inspected and the argument of Counsel heard, he cause it seems to the Court here that the judgment of the Court below was erroneous, It is therefore ordered adjudged and decreed that the judgment of the Court below be annulled and reversed and that the cause be dismissed at the cost of the defendant in error. & that this decision be certified below for execution -

Andrew Briscoe appellant
vs
Wm B. Harris
Elijah H. Conrad appellee

Opinion of the Court delivered by Judge Robertson -

This Cause Coming on to be heard on the transcript of the Record of the Court below and it being inspected and the argument of Counsel heard, because it seems to the Court here that there was error in the Court below. It is ordered adjudged and decreed that the judgment of the Court below be annulled and reversed, and the Cause remanded and a new trial awarded with leave for the parties to amend their pleadings in order that the Case may be disposed of on its merits, and the appellee pay the Cost of this Cause in this Court expended, but this decision be certified below for execution.—

The Court made the following Order—

Abner S. Lipscomb having this day appeared in open Court and in due form of law sworn to and subscribed an affidavit in support of the Declaration of Peggy Rankin who claims as the widow of Robert Rankin deceased S. he entitled to a pension from the United States of America. The Clerk of this Court is required to Certify the same under the seal of this Court

William L. Hunt plff in Error
vs. } Galveston
James Emerson deft. in Error

And now comes the Defendant in error and moves the Court to dismiss this cause, because the same was not filed according to law or within the time prescribed by law—

Henry H. Williams for appellant
vs. } Galveston
Gail Borden Collector &c appellee

Opinion of the Court delivered by Ch. Justice Stemphicc—

This Cause coming on to be heard on the transcript of the Record of the Court below and it being inspected

the argument of Counsel heard, because it seems to the court here that there was no error in the judgment of the court below, It is ordered adjudged and decreed that the judgment of the court below be in all things affirmed and the appellant pay the cost of this cause in this court expended. Let this decision be certified below for execution. —

Ebenezer Allen appt.
269. vs 3/20 Bowie
J.W. Scott et al. appellees

This cause coming on to be heard on the transcript of the Record of the court below, and it being inspected and the argument of Counsel heard, because it seems to the court here that the judgment of the court below was erroneous, It is ordered adjudged and decreed that the judgment of the court below transferring this cause to the Southern Division of Red River County be set aside and annulled and the cause remain for adjudication in the Record of Bowie County where it was properly brought and the appellee pay the cost of this cause in this court expended - Let this decision be certified below for execution. —

It is ordered that all causes and motions which are now disposed of shall be continued to the next session of this court.

On Motion
C. N. Bassett Esq
a practitioner of Law in this Republic was admitted to practice in this Court. —

It is ordered that at the next session of the Court the District Attorney be taken up in the following order, viz, Third — Second — Sixth — First — Fourth — Fifth and Seventh. —

And that this order be published in some newspaper at the place fixed for the sessions of the Supreme Court —

Ordered that the court adjourn sine die until its next annual term, Thursday

of the Court having been examined
and approved. —

John Hemphill Ch. Just.
R. E. B. Baylor
Asso. Justs
William S. Jones
Williams E. Jones